IN THE UTAH SUPREME COURT

June 8, 2026

CANDICE KULBETH
Petitioner

v.

KIRK RUSSEL MARSH
Respondent

20260570-CA
Appellate Court Case Number

254402167
Trial Court Case Number
Fourth District Court, Utah County

Judge Pullan/ Commissioner Ito

PETITION FOR WRIT OF CERTIORARI
OF CANDICE KULBETH, PETITIONER

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/s/ *Candice Kulbeth*
Petitioner, *pro se*

PARTIES

Petitioner Candice Kulbeth, respondent in the Appellate Court, files this *Petition* seeking relief of the Appellate Court orders of May 11, 2026 against Kirk Russel Marsh, Appellant in *Marsh v. Marsh and Kulbeth.* Lauren Zimmer (fka Marsh) is a respondent in the lower appellate proceedings.

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STATEMENT OF QUESTIONS PRESENTED

1. Whether the Court of Appeals erred by issuing a final order that omitted a named respondent and failed to address a timely filed response, thereby denying that party their only available forum for due process.

2. Whether a summary denial of a petition for extraordinary relief constitutes a "final adjudication" of a respondent's rights if that respondent's filing was ignored by the tribunal.

3. Whether a court order compelling the removal of a non-party's online content—enforced through the mechanism of contempt against a named party—constitutes an unconstitutional prior restraint and a violation of due process, thereby requiring notice, a hearing, and First Amendment balancing as to the content's actual owner.

4. Whether enforcement of an order or contempt finding—where the allegations are predicated entirely on a third party's independent conduct—violates the defendant's due-process rights by imposing sanctions despite absence of willfulness, ability to comply, or evidentiary findings of "active concert" required under Utah law, as well chilling as the third party's First Amendment rights by

compelling suppression of protected speech without notice, hearing or independent adjudication.

5. Whether a party with no procedural forum in the trial court and no pending appeal has a right to extraordinary relief where the court of appeals' denial of relief rested on remedies structurally unavailable to her.

REPORTS ISSUED BY THE COURT OF APPEALS

This *Petition for Writ of Certiorari* references the NOTICE issued on May 5, 2026, and the ORDER DENYING EMERGENCY PETITION FOR EXTRAORDINARY RELIEF dated May 11, 2026.

GROUNDS ON WHICH JURISDICTION OF THE SUPREME COURT IS INVOKED

6. Kulbeth invokes the jurisdiction of the Utah Supreme Court to review the decision of the Utah Court of Appeals pursuant to Utah Code Ann. § 78A-3-102(3)(a)(i) and Utah Rule of Appellate Procedure Rule 45. The decision and summary denial sought to be reviewed was entered by the Utah Court of Appeals on May 11, 2026 in Case No. 20260570-CA. No petition for rehearing was filed in the Court of Appeals, and no order granting an extension of time within which the petition for certiorari has been sought or entered. This *Petition* is timely filed within 30 days of entry of the date of decision pursuant to URAP 48(a). This is an original *Petition for Writ of Certiorari,* not a cross-petition; reliance upon Rule 48(d)(1)(B) is not claimed. Jurisdiction is conferred upon this Court by Utah Code Ann. § 78A-3-102(3)(a)(i), which grants the Supreme Court jurisdiction over writs of certiorari to the Court of Appeals.

7. Additionally, Utah Code Ann. § 78A-3-102(4)(a)(vi) grants this Court original jurisdiction regarding orders of a court of record over which the Court of Appeals does not have appellate jurisdiction.

8. Under URAP 46, this court may grant jurisdiction on a legal question regarding the proper interpretation of, or ambiguity in, a constitutional provision, statue or rule that is likely to affect future cases; legal questions of first impression in Utah likely to reoccur; to provide an opportunity to resolve confusion or inconsistency in a legal standard set forth in a decision of the Court of Appeals, or in a prior decision of the Supreme Court, that is likely to reoccur; or to challenge a decision of the Court of Appeals with regard to a legal issue that has not been addressed by the Supreme Court and that is likely to recur in future cases. This *Petition* fills all these.

CONTROLLING PROVISIONS

9. **United States Constitution Amendment I** -- Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
10. **Utah Constitution Article I, Section 1 --** All persons have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right.

11. **Utah Constitution Article I, Section 7** -- No person shall be deprived of life, liberty or property, without the due process of law.
12. **Utah Constitution Article I, Section 15**-- No law shall be passed to abridge or restrain the freedom of speech or press. In all criminal prosecutions for libel the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.
13. **Utah Code Ann. § 78A-3-102(3)(a)(i) --** The Supreme Court has exclusive and original appellate jurisdiction, including exclusive and original appellate jurisdiction of an interlocutory appeal, over: (i) the judgment of the Court of Appeals.
14. **Utah Code Ann. § 78A-3-102(4)(a)(vi) --** The Supreme Court has original appellate jurisdiction ...over an order, judgment, or decree of a court of record over which the Court of Appeals does not have appellate jurisdiction.
15. **Utah Rules of Evidence Rule 201(e)** -- On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.
16. **Utah Rules of Evidence Rule 401** -- Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.

17. **Utah Rules of Evidence Rule 405 -- (a) By Reputation or Opinion**. When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct. **(b) By Specific Instances of Conduct**. When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's character.
18. **Utah Rules of Appellate Procedure Rule 8(a)(1)** -- A party may move the appellate court for the following relief pending appeal or pending disposition of a petition under Rule 5 or Rule 19: (A) a stay of the judgment or order with or without security; or (B) an order suspending, modifying, restoring, or granting injunctive relief.
19. **Utah Rules of Appellate Procedure Rule 19(a) --** When no other plain, speedy, or adequate remedy is available, a person may petition an appellate court for extraordinary relief referred to in Rule 65B of the URCP.
20. **Utah Rules of Appellate Procedure Rule 23C** --(a) A party may request expedited review on any pending motion, petition or appeal by filing a motion with the appellate court; (c) A party may file a response to the motion within three days after service of the motion or whatever shorter time the appellate court may fix.
21. **Utah Rules of Appellate Procedure Rule 45(a) --** Unless otherwise provided by law, the review of a judbment, an order, and a decree (herein referred to as "decisions") of

the Court of Appeals shall be initiated by filing in the Utah Supreme Court a petition for writ of certiorari to the Utah Court of Appeals.

22. **Utah Rules of Appellate Procedure Rule 46(a)** -- Review by a writ of certiorari is not a matter of right, but of judicial discretion, and will only be granted for special and important reasons. The primary consideration is whether a decision on the question presented is likely to have significant precedential value. The possibility of an error in the Court of Appeals' or another tribunal's decision, without more, ordinarily will not justify review. The following, while neither controlling nor wholly measuring Supreme Court's discretion, indicate the character of reasons that will typically be considered: (1) The petition presents a question regarding the proper interpretation of, or ambiguity in, a constitutional provision, statute or rule that is likely affect future cases; (2) The petition presents a legal question of first impression in Utah that is likely to recur in future cases; (3) The petition provides an opportunity to resolve confusion or inconsistency in a legal standard set forth in a decision of the Court of Appeals, or in a prior decision of the Supreme Court, that is likely to affect future cases; or (4) The petition challenges a decision of the Court of Appeals with regard to a legal issue that has not been addressed by the Supreme Court and that is likely to recur in future cases.

23. **Utah Rules of Appellate Procedure Rule 48(a)** -- A petition for writ of certiorari must be filed with the Supreme Court within 30 days after the Court of Appeals final decision is issued.

STATEMENT OF THE CASE

24. This *Petition for Writ of Certiorari* arises from a May 11, 2026 summary denial by the Utah Court of Appeals in Case No. 20260570-CA, *Kirk Russel Marsh v. Lauren R. Marsh and Candice Kulbeth*. Petitioner Candice Kulbeth--a nonparty in the underlying district court case *Marsh v Marsh*--was named as a respondent in the appellate docket and timely filed a response pursuant to URAP 23C asserting independent constitutional rights directly implicated by a district court coercive civil contempt finding against Kirk Russel Marsh — a finding that rests entirely on *Kulbeth's* online social media conduct, attributed to *Marsh*, without any finding of agency, direction, or control. This contempt, with purge conditions beyond Marsh's control, threatens Marsh with incarceration on July 22, 2026.

25. Despite Kulbeth's status as a named party and timely participation, the Court of Appeals issued its May 11, 2026 denial of Marsh's *Petition for Extraordinary Relief under URAP 8 and 19,* seemingly bifurcating the case by denying the *Petition* against Lauren Marsh without addressing Candice Kulbeth. The court omitted orders on Marsh's *Motion Under URAP 23C* as well as omitting Kulbeth from the order caption entirely--the court failed to address Kulbeth's filing, constitutional claims, or rights in any respect. No court — trial or appellate — has ever adjudicated Kulbeth's rights. Kulbeth seeks discretionary review because the court of appeals' omission is not a correctable procedural error — it is a structural due process failure that leaves Kulbeth as a named appellate respondent with no ruling, no remedy, and no path through ordinary district or appellate channels to vindicate rights that no court has yet addressed.

26. Although this *Petition* relies primary upon the structural errors of the Court of Appeals under Utah Code Ann. §78A-3-102(3)(a)(i) to establish this Court's jurisdiction, this matter fundamentally presents a dual and unresolved jurisdictional conflict. The district court exercised coercive power over Kulbeth's property and speech through contempt orders at a third party(Marsh), despite lacking personal jurisdiction over Kulbeth, and providing no mechanism for her to appear. This underlying jurisdictional defect inflicted upon an independent injury upon Kulbeth and is not cured by the appellate court's actions.

27. Because the Court of Appeals summarily denied relief without addressing a named respondent, this Court's intervention is required under Utah Code Ann. §78A-3-102(3)(a)(i) to review the appellate court's final order. Separately, URAP 46(a)(3) gives the Court opportunity to clarify the scope of its original appellate jurisdiction under Utah Code Ann. §78A-3-102(4)(a)(vi) when a lower court's orders extrajudicially target an absent citizen over whom the trial court had no jurisdiction, and who has no automatic right of appeal.

28. This forum foreclosure question implicates fundamental protections under the Petition Clause of the First Amendment and Article I, Sections 1, 7, and 15 of the Utah Constitution. Kulbeth was denied three independently guaranteed constitutional rights: the right to petition for redress of grievances; the right to communicate freely her thoughts and opinions; and the right to be heard in defense of any allegation that such communication was an abuse of that right. Each violation is independent of Marsh's claims. Each is without remedy below. Each requires this Court's intervention.

ANALYSIS OF QP 1

Whether the Court of Appeals erred by issuing a final order that omitted a named respondent and failed to address a timely filed response, thereby denying that party their only available forum for due process.

29. The United States Supreme Court has firmly established that judicial predictions about litigation outcomes cannot substitute for an actual opportunity to defend; procedural due process affords every party against whom a claim is stated a genuine opportunity to be heard. *Nelson v. Adams USA, Inc.*, 529 U.S. 460, 466 (2000). This principle applies with compounding force to non-parties in Utah, who occupy a severely constrained procedural position: because they are legal strangers to an underlying district court case, they possess no standard appeal as of right. *Utah Downs Syndrome Foundation, Inc. v. Gilbert*, 2012 UT 62, 286 P.3d 1275 ¶ 9. When an adverse trial court order targets the rights or property of an absent citizen, *Gilbert* designates a petition for an extraordinary writ as the exclusive "vehicle pursuant to which [nonparties] can properly challenge [ ] [a court] order." *Id.*

30. Kulbeth occupies precisely this vulnerable procedural posture. The trial court's underlying contempt orders against Marsh directly target Kulbeth's independent online content, utilizing the threat of contempt liability against Marsh to force the suppression or destruction of Kulbeth's property. Kulbeth--a nonparty in the district court-- has zero standing in the district court and no standard mechanism to appeal. The extraordinary writ is not merely a preferred alternative—under *Gilbert*, it is her *only available* legal

remedy. The Court of Appeals' own record confirms that Kulbeth's necessary party status was explicitly recognized:

a. **Affirmative Joinder by Caption:** On May 5, 2026, the Court of Appeals issued a Notice in *Kirk Russel Marsh v. Lauren R. Marsh and Candice Kulbeth*, Case No. 20260570-CA, affirmatively naming Kulbeth as a Respondent in the case caption and notice.

b. **Silence After Submission:** Kulbeth timely filed a substantive response on May 7, 2026, asserting independent violations of her First Amendment right to petition and freedom of speech. This response was properly in the record when the court took the matter under submission.

c. **Ambiguity in Finality:** The Court of Appeals subsequently denied relief, holding that an adequate forum existed in the trial court below *for Marsh*. The court's denial only addressed claims against Lauren Marsh, while completely omitting Kulbeth's name, filing, and independent constitutional claims from its final ruling.

31. This omission constitutes a structural constitutional error. The Court of Appeals did not decline jurisdiction over Kulbeth's claims; it appeared to accept jurisdiction by naming Kulbeth as a respondent, took the matter under submission with Kulbeth's briefing in the record, and then exited the jurisdictional posture silently. The appellate court seemingly committed judicial error in both in omitting Kulbeth *and* in dismissal of the *Petition:* the standard held in *Gilbert*--"the discretionary nature of our writ power decreases where a person's fundamental due process rights are at issue *Id.* ¶ 19--was not applied to Kulbeth, whose due process issues have no other forum. By denying the writ

solely upon Marsh, the court denied the mandate to "provide [ ] [Kulbeth] an adequate remedy in light of the appellate court's obligation to give due regard to principles of due process." *Id.* ¶ 22.

32. The Court of Appeals' referral back to the district court compounds rather than cures the violation. By directing Marsh to seek a remedy in the trial court below, the appellate court routed the dispute to a forum in which Kulbeth completely lacks standing. Kulbeth cannot intervene as of right, cannot appeal the district court's orders, and has no procedural mechanism to assert her independent First Amendment rights before that tribunal. The trial court itself has consistently declined to address Kulbeth's independent involvement or actions. Routing Marsh to a forum that is structurally unavailable to Kulbeth is not an adequate remedy—it is the absolute absence of one. The Court of Appeals created this posture and cannot self-correct it. Rehearing is unavailable because the order gave Kulbeth nothing to seek rehearing from — silence cannot be appealed as error by the party it ignores. The district court cannot fix it because Kulbeth has no standing there. No other appellate path exists. The error is not merely unreviewed. It is structurally unreviewable by any court except this one.

33. The resulting order plunges Kulbeth into a constitutional black hole: an absent citizen whose property is subjected to adverse orders below, who has no standing in the district court, and whose timely asserted claims were accepted into the appellate record only to be silently discarded. Review is urgently required under URAP 46(a)(2), (3), (4): this is a question of first impression that will recur, it exposes confusion in the legal standards governing nonparty rights, and it concerns a legal issue this Court has never

addressed--all arising from a clear departure from the accepted and usual course of judicial proceedings that no lower court can correct.

ANALYSIS OF QP 2

Whether a summary denial of a petition for extraordinary relief constitutes a "final adjudication" of a respondent with no other forum's rights if that respondent's filing was ignored by the tribunal.

34. Under *Macris & Associates v. Neways*, *Inc.* 2000 UT 93 ¶ 44, a final judgment carries preclusive effect only when the issue was competently, fully, and fairly litigated. Under *Snyder v. Murray City Corp.*, 2003 UT 13 ¶ 34 and *Dennis v. Vasquez*, 2003 UT App ¶ 8, a judgment is on the merits only when it completely disposes of the underlying cause of action. The Court of Appeals' order satisfies neither standard as to Kulbeth: it never engaged her claims, never addressed her filing, and never disposed of her cause of action in any form. A denial that is silent as to a named respondent is not a judgment on the merits.

35. Preclusion cannot attach where the party had no mechanism to obtain review of a judgment that never addressed her. *Nelson* closes the constitutional floor: due process forbids binding a party to a judgment entered without an actual opportunity to be heard on their specific claims.

36. On May 11, the court issued a denial that seemingly bifurcated and disposed of *Marsh v. Marsh and Kulbeth;* the court denied *Marsh v. Marsh* but left *Marsh v. Kulbeth* entirely unaddressed, rendering it ambiguous to finality. The court cannot acquire jurisdiction over a respondent, establish a distinct appellate proceeding (*Marsh v.*

Kulbeth), and then export a party-specific silence as a binding determination of that respondent's rights. The distinction matters: a reasoned rejection would be reviewable; silence is not.

37. If the denial operates as final against Kulbeth, it precludes her from raising these constitutional claims in any future proceeding—without her ever having received the adjudication finality requires, directly violating *Nelson v. Adams USA, Inc.*, 529 U.S. 460. It also violates the elementary principle that a judgment cannot bind a party whose claims were never addressed. The Court of Appeals cannot acquire jurisdiction over a respondent, ignore her filing, and then export the resulting silence as a binding determination of her rights. This is precisely the scenario URAP 46(a)(2), (4) addresses—the question of whether silence as to a named respondent constitutes final adjudication of her independent claims is a legal question of first impression in Utah that has not been addressed by this Court and will recur whenever an appellate court disposes of a petition on party-specific grounds while a named respondent's claims remain live.

ANALYSIS OF QP 3

Whether a court order compelling the removal of a non-party's online content—enforced through the orders against a named party—constitutes an unconstitutional prior restraint and a violation of due process, thereby requiring notice, a hearing, and First Amendment balancing as to the content's actual owner.

38. *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963) establishes that the First Amendment prohibits informal governmental coercion designed to achieve speech

suppression through a proxy, holding that judicial scrutiny must look past the form of the order to its practical effect on speech. Here, the district court's order functions as an unconstitutional prior restraint. By threatening Marsh with imprisonment unless a non-party's independent digital platform is deleted, the court bypassed the rigorous procedural safeguards required to suppress expression.

39. While injunctions that incidentally affect speech must be narrowly tailored to address a specific, adjudicated harm (*Madsen v. Women's Health Center, Inc.*, 512 U.S. 753 (1994)), the order here targeted no specific defamatory or unlawful statements. Instead, it imposed a blanket, content-based suppression of an entire digital forum belonging to a non-party. By utilizing a litigant's contempt liability as leverage to compel the removal of a third party's independent expressive content, the court created a constitutional bypass—achieving censorship by proxy while stripping the actual speaker of notice, a hearing, and any opportunity to defend her protected speech.

40. When a court uses the threat of contempt against a litigant to force the removal of a third party's independent expressive content, it creates a proxy mechanism for censorship. This bypasses traditional prior restraint scrutiny and strips the actual speaker of procedural due process. Given the ubiquity of social media and third-party digital platforms in modern litigation, particularly within family law and stalking injunction proceedings, this issue possesses broad future application and systemic importance.

41. Review is warranted under URAP 46(a)(1) because this is a significant legal question of first impression in Utah that is highly likely to recur. The recurrence of this issue is neither speculative nor hypothetical, as demonstrated by the district court actions

in two other cases directly affecting Kulbeth. In each instance, courts used contempt or injunctive leverage to suppress a nonparty's speech without notice or standing. The details of these cases are included to demonstrate recurrence:

a. **Kulbeth's Independent Actions.** In March 2024, Kulbeth created a GoFundMe ("*Support for Cynthia and her 7 Children*") to assist a divorcing friend. On April 9th and 13th, 2025, Kulbeth issued Giles, ex-husband to Cynthia, formal cease-and-desist warnings against stalking, abuse of process, and third-party coercion under Utah Code § 76-5-106.5.

b. **Third-Party Attribution Without Notice:** In April 2025, Giles filed a stalking injunction against his adult daughter, *Giles v. Kelshaw* (Fourth District), which included *Kulbeth's* GoFundMe as alleged evidence of *Kelshaw's* stalking behavior. *See Appendix D* p. 16.

c. **The Contempt/Coercion Loophole:** Despite Kelshaw's testimony that Kulbeth acted independently and Kelshaw could not compel Kulbeth to act, the district court attributed Kulbeth's independent actions to the Kelshaw before issuing a stalking injunction against Kelshaw. *See Appendix D* p. 17.

d. **Collateral Suppression of Speech:** The *Giles v. Kelshaw* ruling was subsequently leveraged in a parallel divorce proceeding, *Giles v. Giles*, to coerce a domestic relations settlement that resulted in the removal of Kulbeth's GoFundMe (*See* Exhibit E ¶ 21, 22), absent Kulbeth's rights to defend herself or property.

e. **Abuse of Process:** In *Giles v. Kelshaw* and *Giles v. Giles,* the GoFundMe's attribution to Kulbeth was not in dispute. However, the lack of judicial boundaries defining

"active concert" allowed Giles to *not only* censor her speech and destroy her property, but *also* to maim her character and weaponize the judicial process-–circumventing Kulbeth's cease-and-desist warnings.

42. Without guidance from this Court, parties will continue to utilize contempt and injunctive powers against named litigants to systematically suppress the independent, protected speech of third-party citizens—like Kulbeth—who are entirely absent from the underlying litigation. Before a court may compel removal of non-party expressive content, it must afford the content's owner independent notice, standing to be heard, and must apply prior restraint scrutiny.

43. This question implicates fundamental protections under both the First Amendment to the United States Constitution and Article I, Section 15 of the Utah Constitution. The specific mechanism at issue—utilizing a named party's contempt liability as leverage to coerce the suppression or removal of a non-party's constitutionally protected speech—presents a novel structural question of constitutional interpretation that Utah courts have yet to address--presenting a novel constitutional question ripe for review under URAP 46(a)(4).

ANALYSIS OF QP 4

Whether enforcement of an order or contempt finding—where the allegations are predicated entirely on a third party's independent conduct—violates the defendant's due-process rights by imposing sanctions despite absence of willfulness, ability to comply, or evidentiary findings of "active concert" required

under Utah law, as well as chilling the third party's First Amendment rights by compelling suppression of protected speech without notice, hearing or independent adjudication.

44. Utah jurisprudence strictly dictates that civil contempt requires a lawful underlying order, knowledge of the order, willfulness, and ability to comply (see *Von Hake v. Thomas* 759 P.2d 1162 (Utah 1988), *Utah Farm Prod. Credit Ass'n v. Labrum,* 762 P.2d 1070, 1074 (1988)*, Turner v. Rogers*, 564 U.S. 431 (2011)). This established precedent protects the due process rights of the named party facing the contempt sanction. However, Utah courts find a procedural vacuum regarding the lawfulness of contempt charges when an independent third party's actions form the literal basis of the contempt charge.

45. This issue is live, critical, and actively recurring across Utah courts. Under URCP 65A(e), the court's injunctive reach is strictly limited to the parties and those in "active concert or participation" who receive actual notice. *Regal Knitwear Co. v. Labor Board,* 324 U.S. 9, 13 (1945) and *Waffenschmidt v. Mackay*, 763 F.2d 711, 717 (5th Cir. 1985) define "active concert" as requiring actual notice plus either participation in the violation or identity of interest with the enjoined party. Yet, Utah lacks any binding appellate matrix or evidentiary framework to direct lower courts on how to define "active concert" before enforcement of compliance upon the litigating party. Given impossibility of compliance upon the contemnor, such enforcement based upon nonparty conduct renders sanctions and imprisonment punitive rather than coercive. *Von Hake, Turner*

46. The immediate danger to parties this procedural gap poses to parties is perfectly illustrated by the compounding defects in *Marsh v. Marsh*, *Giles v. Kelshaw,* and *Giles v. Giles.* Because no court has adjudicated the claims, they are presented for illustrative purposes, and preservation of merits for review:

a. **Bypassing Ownership and Notice:** Marsh's sworn statements state he does not own the Instagram account found contemptuous. Although Marsh explicitly requested the opposing party notify the actual account owner– providing a vehicle in which to do so–the opposing party declined. The declination gave Kulbeth no forum in which to assert ownership and property rights. The court did not address Marsh's declarations and issued no findings of ownership, no findings that Kulbeth was acting in "active concert" with Marsh, and no justification for proceeding entirely without notice to Kulbeth. *See Exhibit C* ¶16.

b. **Inadequate Findings and Incarceration Threats:** The district court's contempt charges against *Marsh* for *Kulbeth's* independent social media are legally defective. The court failed to establish the foundational prongs of contempt under *Labrum* – a lawful underlying order, knowledge, willfulness, or the ability to comply. Instead, the court found "truth is not necessarily a defense for contempt" before issuing a two-level purge condition upon Marsh–ordering the total removal of both Instagram content *and* account. *See Exhibit C* ¶16.

c. **No Ability for the Contemnor to Comply:** The court ordered Marsh to "*make every effort* to take the account," but made the purge condition "Father may purge his contempt by *removing the account." See Exhibit C* ¶16. *Von Hake* holds impossibility

is a complete defense when compliance would require the contemnor to perform an act beyond their legal or physical capacity. The court's own language—"make every effort"—is an implicit acknowledgment that Marsh lacks direct control, which is the impossibility standard met on the face of the order itself. This is a classic abuse of discretion--*Kulbeth* holds the keys to *Marsh's* cell.

d. **A Documented Pattern of Systemic Recurrence:** In *Giles v. Kelshaw*, the court accepted Giles' dispositive characterization of Kulbeth's fundraising actions as "proxy for harassment"--*see Appendix D* p. 16--despite judicial notice of Kulbeth's intent (Kulbeth's judicially noted Facebook post states "This is my friend. I love her and her whole family. The family could desperately use our help.") *Id.* The resulting orders were legally injurious to *Kelshaw* – the court issued findings and orders against *Kelshaw* without evidentiary basis for *Kulbeth* under Utah Rules of Evidence Rules 201(e), 401, 405.

e. **An Insufficient Rule:** As per Utah Rules of Evidence 201(e), "On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard." However, the Rule does not account for judicial notice concerning a nonparty, nor does it specify that a party must be notified *after* the judicial notice. Without these safeguards, a nonparty's actions can be judicially noticed without the nonparty's knowledge, nullifying their right to be heard. This is not a First Amendment question; it is a procedural defect in contempt enforcement, where judicial notice is used to bypass evidentiary requirements and

attribute non-party conduct to a litigant without findings of active concert. Kulbeth was not served notice after the court took judicial notice of her social media, depriving her of the opportunity to defend herself or Kelshaw. Rather, the court used URE 201 to bypass the Utah Rules of Evidence entirely, turning a non-party's social media post into an irrefutable finding of guilt against the defendant without allowing for cross-examination or authentication. Additionally, *even if* Kulbeth had attempted to invoke her right to be heard, *Gilbert* makes clear that nonparties have no certain mechanism for "de facto party" rights even when subject to a court order *Id* ¶ 18, rendering URE 201(e) insufficient for a nonparty's right to be heard in defense of the defendant.

f. In *Giles v. Giles,* Giles leveraged the orders in *Kelshaw* to hold a $77K arrears settlement hostage pending Kulbeth's GoFundMe removal. Settlement was reached upon Cynthia's coerced agreement to send Kulbeth coercive communication and to report the GoFundMe as fraudulent to the institution. *See Exhibit E* ¶ 18, 21, 22.

47. Because Utah courts lack appellate direction defining "active concert" for independent digital speech, absent citizens are systematically sanctioned by proxy, and litigants--such as Kelshaw, Cynthia Giles, and Marsh--face orders, sanctions and incarceration for speech and actions they do not own and cannot control. This Court should grant review to establish an evidentiary matrix protecting parties from impossibility of compliance and to disallow bad-faith actors to weaponize the coercive powers of the court. This *Petition* affords this Court opportunity to adopt a procedural standard—that conduct based upon nonparty actions must only be considered after the

court takes jurisdiction of the nonparty, providing, notice, standing, opportunity to be heard, and findings-- based in evidentiary standards--of acting or participating in concert.

48. The issues here demonstrate confusion and inconsistency in legal standards, directly reflected in the lower and Appellate Court's rulings concerning Kulbeth, and as such demonstrates the need for this Court's intervention under URAP 46(a)(3).

ANALYSIS OF QP 5

Whether a party with no procedural forum in the trial court and no pending appeal has a right to extraordinary relief where the court of appeals' denial of relief rested on remedies structurally unavailable to her.

49. The Court of Appeals effectively severed the case by disposing of *Marsh v. Marsh* while completely failing to adjudicate *Marsh v. Kulbeth*, creating in a situation in which there is no extant ruling or final judgment on Kulbeth's independent constitutional claims anywhere in the judiciary.

50. *Gilbert* establishes that a nonparty may assert independent constitutional rights through an extraordinary writ proceeding. What *Gilbert* does not address — and what no Utah court has resolved — is what becomes of those claims when that proceeding is disposed of on grounds specific to another party that are structurally inapplicable to the nonparty. That question will recur any time a court of appeals denies a petition on party-specific grounds while a named party's independent claims remain live and unaddressed. Because it is unresolved, Kulbeth has no other plain, speedy, or adequate remedy regarding recurrent, ongoing litigation outside this Court. The question justifies discretionary review under URAP 46(a)(4).

51. The Court of Appeals created this posture and cannot self-correct it--silence cannot be appealed as error by the party it ignores. It is a foundational tenet of appellate jurisprudence that a court must resolve the claims and rights of the parties properly before it. Dismissing a case based on remedies available to 'Petitioner A' does not adjudicate the live, constitutional injuries of 'Respondent B': if the Court of Appeals' party-specific denial also extinguishes Kulbeth's independent claims, she is permanently foreclosed without adjudication. If it doesn't extinguish them, she has no remaining forum in which to assert them. Either way she is without remedy. The only court that can establish whether independent nonparty rights survive a party-specific extraordinary writ denial—and what forum exists for those rights if they do—is this Court. The absence of any ruling below is itself the grounds for review under URAP 46(a)(4)—this Court is the first court that can address it.

52. The question of whether nonparty rights survive a party-specific denial has no answer in Utah jurisprudence. This *Petition* provides opportunity to resolve inconsistency under URAP 46(a)(3). Absent resolution, lower courts have no guidance and may continue producing inconsistent results.

CONCLUSION

53. Kulbeth stands in a position Utah law did not contemplate and has not resolved: named as an appellate respondent, timely heard, and then silently discarded — with no standing in the district court, no appeal as of right, and no ruling she can challenge or accept. That posture is not an anomaly. It is the predictable result of a procedural architecture that has no mechanism for the triangulated relationships digital speech

routinely creates in family law and civil litigation. This Court should establish the framework that fills that gap — requiring notice, standing, evidentiary findings of active concert, and prior restraint scrutiny before a nonparty's speech, property, or constitutional rights may be foreclosed through the coercive machinery of contempt. Kulbeth respectfully requests that this Court grant the *Petition*.

APPENDIX

A - Notice in *Marsh v. Marsh and Kulbeth,* Case No. 20260570-CA, May 5, 2026

B - *Order Denying Emergency Petition for Extraordinary Relief, Marsh v. Marsh and Kulbeth,* Case No. 20260570-CA, May 11, 2026

C - *Order on Hearing, Marsh v. Marsh,* Case NO 254402167, November 12, 2025

D - *Ruling and Order on Petitioner's Request for Civil Stalking Injunction, Giles v. Kelshaw,* Case No. 250401294, December 23, 2025

E - *Order Modifying Decree of Divorce, Giles v. Giles,* Case No. 224906062, February 23, 2026

F - Kulbeth *Response to Motion for Expedited Review under URAP 23C, Marsh v. Marsh and Kulbeth,* Case No. 20260570-CA, May 7, 2026

Certificate of Service
(Appellate Cases)

I certify that on June 8, 2026 a copy of Petition for Writ of Certiorari of Candice Kulbeth was served on all parties listed here by the method indicated below:

Mailed	Emailed	Hand-delivered	Name	Mailing or Email Address
[ ]	[x]	[ ]	Kirk Russel Marsh	kirkrussel@gmail.com
[ ]	[x]	[ ]	Lauren Marsh Zimmer through counsel Kristy Hanson	kristy@mhmlawoffices.com
[ ]	[x]	[ ]	Kirk David Marsh	kirk.d.marsh@gmail.com
[ ]	[x]	[ ]	James Blair Giles	blair@jbgsports.com
[ ]	[x]	[ ]	Anne Elizabeth Kelshaw through counsel Darren Levitt	darren@levittlegal.com
[ ]	[x]	[ ]	Cynthia Giles through counsel Adam Kaas	adam@richardskass.com
[ ]	[x]	[ ]	The Fourth District Court	provofiling@utahcourts.gov
[ ]	[x]	[ ]	The Utah Attorney General	notice@agutah.gov

June 8, 2026
Date

Sign here ► /s/ Candice Kulbeth

Typed or Printed Name Candice Kulbeth

APPENDIX A

Ryan M. Harris
Presiding Judge
David N. Mortensen
Associate Presiding Judge
Gregory K. Orme
Judge
Michele M. Christiansen Forster
Judge
Ryan D. Tenney
Judge
John D. Luthy
Judge
Amy J. Oliver
Judge

Utah Court of Appeals

450 South State Street
P.O. Box 140230
Salt Lake City, Utah 84114-0230

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Nicholas G. Stiles
Appellate Court Administrator
Jennifer A. Gadbois
Clerk of Court

IN THE UTAH COURT OF APPEALS

KIRK RUSSELL MARSH, Petitioner, v. LAUREN R. MARSH AND CANDICE KULBETH, Respondents.	NOTICE Case No. 20260570-CA Trial Court Case No. 254402167

On May 4, 2026 a Petition for Extraordinary Writ was received by the Utah Court of Appeals. The case number is 20260570-CA and should be indicated on any future filings.

The Petition for Extraordinary Writ was filed without the payment of the $375.00 filing fee or an application for waiver of filing fee. Please be advised that the filing fee or waiver must be submitted to this court within seven (7) days of the date of this letter. If evidence of payment of the filing fee or application for waiver of filing fee is not received by this court within such time period, the petition will be submitted for dismissal.

If requested by the court, a respondent may file a response within 30 days of the court's request for a response. Response to the motion for expedited review is due May 7, 2026.

Dated: May 5, 2026
04:48:33 PM

/s/ MARINA COX
Appellate Court Coordinator

APPENDIX B

IN THE UTAH COURT OF APPEALS

KIRK RUSSEL MARSH, Petitioner, *v.* LAUREN MARSH., Respondent.	ORDER DENYING EMERGENCY PETITION FOR EXTRAORDINARY RELIEF Case No. 20260570-CA

Before Judges Orme, Harris, and Tenney.

This matter is before the court on Petitioner's Emergency Petition for Extraordinary Writ, filed on May 5, 2026.

Rule 65B(a) of the Utah Rules of Civil Procedure provides "[w]here no other plain, speedy, and adequate remedy is available, a person may petition the court for extraordinary relief on any of the grounds set forth in this rule." Utah R. Civ. P. 65B(a). The Utah Rules of Appellate Procedure also require a petitioner seeking extraordinary relief to demonstrate why "no other plain, speedy, or adequate remedy exists and why the relief should be granted." *See* Utah R. App. P. 19(e)(4). The granting of extraordinary relief is discretionary, and unlike a party filing a direct appeal, a petitioner seeking extraordinary relief "has no right to receive a remedy" that corrects the district court's alleged error. *See Cox v. Laycock,* 2015 UT 20, ¶ 16, 345 P.3d 689.

Petitioner has not persuaded this court that he has no other plain, speedy, and adequate remedy to address his claims, or alternatively, that this court should discretionarily grant his requested relief. He has the opportunity to appear and defend his position at the hearings he seeks to avoid, and his direct appeal on the substantive issues is pending.

Accordingly, IT IS HEREBY ORDERED that Petitioner's Emergency Petition for Extraordinary Relief is denied.

DATED this 11th day of May, 2026.

FOR THE COURT:

Ryan D. Tenney, Judge

APPENDIX C

The Order of the Court is stated below:
Dated: December 21, 2025 06:19:27 PM **/s/** MARIAN ITO District Court Commissioner
Dated: December 29, 2025 02:11:55 PM **/s/** DEREK P PULLAN District Court Judge

Kristy L. Hanson (9680)
Lesley Johnson (16017)
MACARTHUR, HEDER & METLER, PLLC
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IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH, PROVO DEPARTMENT

In the matter of the marriage of: **LAUREN R MARSH**, and **KIRK RUSSEL MARSH**.	**ORDER ON HEARING (NOVEMBER 12, 2025)** Civil No.: 254402167 Commissioner: Ito Judge: Pullan

A hearing was held in person on November 12, 2025 before the Honorable Commissioner Ito regarding Lauren Marsh Zimmer's *Amended Motion to Enforce Order and for Sanctions* and Kirk Russel Marsh's *Counter Motion to Motion to Enforce Order and for Sanctions*. Petitioner, Lauren Zimmer (fka Lauren Marsh), was present and represented by counsel, Kristy Hanson. Respondent, Kirk Russel Marsh, was present, and represented himself. Having heard oral argument and proffers, reviewed pleadings, and for good cause appearing, the Court orders as follows:

1. The Court finds that the elements of contempt are that (1) there is a court order and that the party knew of the order, (2) the party had the ability to comply with the order, and (3) the party willfully failed to do so. This has to be demonstrated by clear and convincing evidence.

2. The Court clarifies that they cannot establish new orders today and can only enforce an order signed by a judge. Orders made by a judge remain in effect, even if there is a pending petition to modify. Pursuant to UCRP 106, an order remains in effect during the pendency of a petition to modify. Filing a petition to modify does not stay the obligation to pay child support.

Child Support

3. The Court finds Father in contempt on the issue of child support.

4. The order of the Court requires Father to pay $700 a month in child support. Father knew of the order of the Court and has willfully failed to comply. This has been demonstrated by clear and convincing evidence.

5. Father has alleged that he is getting a higher education degree right now. The Utah Appellate Court case Mancil v. Smith, 18 P.3d

509 holds that a child's right to ongoing support should not be held hostage to a parent's desire to get a higher education, even if the parent's degree will eventually allow the parent to pay support at a higher level.

6. Zeros are not acceptable. Paying zero is never acceptable. The circumstances that would need to exist for something like that to actually be acceptable for zeros to be acceptable aren't present here in this case. If you can go to school to get a PhD, you can have a job and earn money to support your kids. They are not mutually exclusive. The Court is not persuaded by the notion that Father lacks the ability to comply.

7. The Court is also not finding that Father has met the requirements under Kessimakis v. Kessimakis, which says that before you can say you lack the ability to comply you have to allege due diligence. The Court does not find that zeros demonstrate due diligence.

8. The lack of payments since December 2023 is after Father's release from incarceration. Mother is not requesting a finding of contempt for not paying child support while incarcerated.

Insurance Premiums and Medical Expenses

9. The Court finds by clear and convincing evidence that Father is found in contempt on the issues of insurance premiums and medical expenses.

Communication

10. The Court does not find contempt on the issue of communication, but the Court does introduce the following supplemental orders:

11. Both parties are to read BIFF for CoParent Communication: Your Guide to Difficult Texts, Emails, and Social Media Posts by Bill Eddy, Annette Burns, and Kevin Chafin.

12. The Court directs that the parties will utilize Our Family Wizard for communication and the tracking of expenses.

13. Each party will pay their own cost associated with Our Family Wizard. If the parties can agree on a different app, they can use that app, otherwise it will be Our Family Wizard.

14. The Court requires a response to an inquiry or email within 48 hours, even if it doesn't necessarily contain a question.

15. The Court does not require therapy, but reserves that as potentially required in the future.

Instagram Account

16. The Court finds Father in contempt as it relates to the Instagram account and posts. The Instagram account needs to be removed and the letters need to be taken down. The Court emphasizes that truth is not necessarily a defense to contempt. You can believe that something is true, but sharing it with your kids can still be a contemptuous act. The Court directs Father to make every effort to take the account down. Father may purge his contempt by removing the account.

Attorney's Fees

17. The Court finds that Mother substantially prevailed and awards her attorney's fees.

Post-judgment Interest

18. The Court awards post judgment interest on all amounts owing at the post-judgment interest rate of January 1, 2024, plus 2% pursuant to U.C.A. §15-1-4(3)(a), which is 6.81% interest on all arrears.

Judgment Amounts

19. The Court awards Mother a judgment in the following amounts:

a. A judgment for $15,400 for past due child support from

January 2024 through October 2025.

b. A judgment for $2,800 for one-half of the costs of medical and dental insurance from January 2024 through October 2025.

c. A judgment for $5,287.13 for one-half of all medical costs to be shared between the parties from December 2023 through September 2025.

20. The Court directs that Father may purge his contempt by paying his ongoing support obligation each month plus something towards arrears each month. The amount towards arrears needs to be a good faith amount. The Court will determine good faith when the matter comes before the Court again. The Court does not place a number towards the arrears that need to be paid each month as it will be based off of future circumstances.

Father's *Countermotion to Enforce*

21. The Court declines to stay the proceedings pending resolution of the *Petition to Modify*. The order or judgment remains in effect while the petition is pending. Frankly, it is not in the children's best interest for parties to be able to say "I don't want to pay child support for the next year and a half" because that can be

how long it takes to resolve the petition to modify, or even longer.

22. The Court does not find that Mother's motions violated Utah enforcement protocols.

23. The Court does not award Father his attorney's fees for two reasons: (1) Father did not prevail; and (2) Father did not use an attorney. The Court does not award attorney's fees to people who don't have attorneys.

THIS DOCUMENT SHALL BE IN EFFECT IF/WHEN THE COURT STAMP IS AFFIXED ABOVE

Approved as to form:

_____

KIRK RUSSEL MARSH
Respondent

NOTICE OF INTENT TO SUBMIT ORDER FOR SIGNATURE

PLEASE TAKE NOTICE that the undersigned, attorney for Lauren Zimmer, will submit the above *Order on Hearing (November 12, 2025)* to the Fourth District Court for signature, upon the expiration of seven (7) days from the date of this Notice unless written objection is filed prior to that time, pursuant to Rule 7(j)(4) of the Utah Rules of Civil Procedure.

DATED this 20th day of November, 2025.

/S/ Kristy L. Hanson
KRISTY L. HANSON

CERTIFICATE OF SERVICE

I hereby certify that I am employed by the law firm of MacArthur, Heder & Metler, PLLC, 4844 North 300 West, Provo, Utah 84604, and that in said capacity and pursuant to Rule 5(b), Utah Rules of Civil Procedure, a true and correct copy of the foregoing *Order on Hearing (November 12, 2025)* was served upon the following on this 20th day of November, 2025:

PARTY	METHOD OF SERVICE
Kirk Russel Marsh kirkrussel@gmail.com *Respondent*	☐ Hand-delivered ☐ U.S. Mail ☐ Fax ☒ E-Mail ☐ Utah Court Electronic Filing System

/s/ Mickala Mahaffey

APPENDIX D

FOURTH DISTRICT COURT, STATE OF UTAH

UTAH COUNTY, PROVO DEPARTMENT

JAMES BLAIR GILES, Petitioner, vs. ANNE ELIZABETH KELSHAW, Respondent.	**RULING AND ORDER ON PETITIONER'S REQUEST FOR CIVIL STALKING INJUNCTION** Case No. 250401294 Judge Kraig Powell

This matter comes before the Court on Petitioner's request for a civil stalking injunction. The Court is tasked with determining the status of the existing *ex parte* civil stalking injunction, namely, whether it should be extended from a temporary to a permanent status or whether it should be dissolved. Petitioner James Blair Giles ("Petitioner") represents himself *pro se* and Respondent Anne Elizabeth Kelshaw ("Respondent") is represented by Darren M. Levitt. The parties presented evidence and argument to the Court in a hearing on the matter that extended over multiple days, concluding on October 31, 2025, at which time, the Court instructed the parties that it would be taking the matter under advisement and issuing a written ruling. Having heard all the evidence, the Court now issues the following Ruling and Order.

PROCEDURAL HISTORY

1. On March 18, 2025, Petitioner James Blair Giles, alleging a course of conduct involving harassment, electronic communications, and third-party contact, filed a Request for Civil Stalking Injunction against his daughter, Respondent Anne Elizabeth Kelshaw.

2. On March 26, 2025, reviewing the Petition *ex parte*, the Court determined there was reason to believe an offense of stalking had occurred and issued a Temporary Civil Stalking Injunction against Respondent.

3. On April 4, 2025, Respondent filed a Request for Hearing to contest the injunction. On the same day, attorney Michael P. Affleck filed a Notice of Appearance of Counsel on behalf of Respondent.

4. On April 16, 2025, attorney James Lavelle filed a Notice of Appearance of Counsel for Petitioner. That same day, the Court entered an Order on Stipulated Motion to Continue Hearing. However, on April 22, 2025, Mr. Lavelle filed a Motion to Withdraw as Counsel. The Court granted the Motion to Withdraw on April 23, 2025.

5. On May 1, 2025, Respondent filed Objections to Petitioner's Exhibits, citing issues of authentication and hearsay. Petitioner filed a Reply to Respondent's Objections on May 2, 2025, followed by a Supplemental Response to Objection of Evidence on May 6, 2025.

6. The matter came before the Court for an initial evidentiary hearing on May 2, 2025. Petitioner appeared *pro se*, and Respondent appeared represented by Mr. Affleck. The Court addressed preliminary evidentiary issues, including the invocation of the exclusionary rule regarding witnesses. Due to time constraints and the complexity of the evidence, the Court continued the hearing and encouraged the parties to engage in settlement negotiations.

7. On June 12, 2025, Petitioner filed a Notice of Noncompliance, alleging Respondent had failed to remove specific videos from social media as ordered by the temporary injunction.

8. On June 17, 2025, the Court held a Scheduling Conference. The parties indicated that settlement negotiations had stalled regarding the removal of third-party content. The Court scheduled a full-day evidentiary hearing for September 16, 2025.

9. In the interim, the parties filed numerous motions, including but not limited to the following: On August 7, 2025, Petitioner filed a Motion for Sanctions and a Motion for Protective Order regarding the conduct of his ex-wife, Cynthia Giles, who is not a party to this case. On August 14, 2025, Mr. Affleck filed a Notice of Withdrawal of Counsel for Respondent. On August 20, 2025, Respondent, appearing *pro se*, filed a Counter Motion to Dismiss and for Sanctions, alongside a memorandum opposing Petitioner's motions. Subsequently, on September 4, 2025, Petitioner filed a Combined Opposition and Motion to Strike Respondent's evidentiary submissions. On September 5, 2025, Respondent filed a Motion to Strike Petitioner's filings as procedurally invalid and untimely.

10. On September 16, 2025, the matter came before the Court for the scheduled evidentiary hearing. Respondent appeared *pro se* and moved for a continuance to retain new counsel, Darren Levitt. Over Petitioner's objection regarding prejudice and delay, the Court granted the continuance to allow Respondent to retain counsel and rescheduled the hearing for September 30, 2025.

11. On September 17, 2025, Darren Levitt filed a Notice of Appearance of Counsel on behalf of Respondent.

12. On September 30, 2025, the evidentiary hearing reconvened. Petitioner appeared *pro se* and Respondent appeared represented by Mr. Levitt. Petitioner presented testimony from witnesses Elizabeth Kelshaw, Josh Adams, and Julie Adams. Due to technical

difficulties with remote witness Al Fredette and time constraints regarding the cross-examination of witnesses, the Court continued the hearing to October 31, 2025. The Court set deadlines for the disclosure of Respondent's exhibits.

13. On October 20, 2025, Petitioner filed a Motion to Exclude Improperly Obtained and Prejudicial Exhibits, challenging Respondent's submission of secret recordings and private communications.

14. The final day of the evidentiary hearing was held on October 31, 2025. Petitioner called Al Fredette as a witness and introduced video evidence regarding the alleged stalking behavior. Respondent testified in her own defense. The Court sustained an objection by Petitioner to Respondent calling Cynthia Giles as a rebuttal witness due to lack of prior disclosure. Following the close of evidence, both parties presented closing arguments.

15. At the conclusion of the October 31, 2025, hearing, the Court took the matter under advisement to issue a written ruling regarding the issuance of a permanent civil stalking injunction and Respondent's request for an award of attorney fees.

ALLEGATIONS OF STALKING

In the Request for Civil Stalking Injunction filed in this case, Petitioner alleges a pattern of behavior by Respondent designed to destroy his reputation, interfere with his relationships, and cause significant emotional and financial distress. Specifically, Petitioner's allegations of stalking center on a series of electronic communications, social media posts, third-party contacts, and interferences with employment Respondent allegedly committed between 2021 and 2025. These allegations can be categorized as follows:

I. Electronic Communications and Social Media Activity

One of Petitioner's complaints concerns Respondent's creation and dissemination of video content on social media platforms.

a. The "25 Years of Abuse" Video

Petitioner alleges that in 2023, Respondent posted a video montage on TikTok, Instagram, and Facebook compiled from clips Respondent recorded of Petitioner in his home. Petitioner complains that this video presents a false narrative accusing him of abuse over a period of "25 years," despite Respondent not yet being 25 years old at the time she posted the video. Respondent's date of birth is July 24, 2000.

b. Third-Party Dissemination of Video through Robbie Harvey

Petitioner further alleges Respondent shared this video with social media influencer Robbie Harvey, who reposted it to an audience of over three million followers. Petitioner contends this video remains publicly accessible and that Respondent has failed to take effective steps to secure its removal, despite this Court's orders to do so.

c. GoFundMe Campaign

Petitioner also alleges that Respondent, in concert with an associate named Candice Kulbeth, utilized the video montage to promote a GoFundMe campaign for Respondent's mother (Petitioner's ex-wife). Petitioner asserts that when Respondent removed the "25 Years of Abuse" video from her personal social media pages, the link on the GoFundMe page was altered to direct viewers to the third-party repost by Robbie Harvey to circumvent the Court's temporary injunction.

d. Harassing Text Messages

Petitioner introduced several clusters of text messages Respondent allegedly sent to him in January and February 2025 that he alleges are evidence of Respondent's intent to harass:

- December 22–24, 2024 ("Naughty" and "Grinch"): Motivated by alleged child support issues, Respondent referred to Petitioner as a "Christmas Grinch" and warned, "if you don't want to be posted to the public for being naughty then don't be naughty."
- January 27, 2025 ("It's My Turn"): Coinciding with Petitioner introducing his sons to his new girlfriend, Respondent texted, "I can't wait for her to find out that you actually suck" and declared, "You tortured me for 20 years, now it's my turn."
- February 20, 2025 ("Self-Aware" and "Sullivan Video"): On the same day an anonymous letter was postmarked to Petitioner's girlfriend, Respondent sent a video stating Petitioner "will never win," threatened to send a video of him screaming at his son ("Sullivan"), and stated she would be "flipping [him] off" for the rest of her life.
- February 23, 2025 ("Rainbows and Butterflies"): While denying involvement in sending the anonymous letter, Respondent texted Petitioner that "Karma bites" and his life "isn't going to be rainbows and butterflies" now that he no longer lives with the family.

II. Third-Party Contact and Interference with Relationships:

Petitioner alleges Respondent has systematically contacted individuals in his private life to disparage him.

a. Contact with the Adams Family Daughters

Petitioner alleges that in February 2025, Respondent sent unsolicited Instagram messages to the adult daughters of his girlfriend, Julie Adams. In these messages, Respondent allegedly warned them that Petitioner was abusive and shared a link to her TikTok video montage.

b. Visit to Chief Josh Adams

Petitioner alleges that Respondent went to the Orem Police Department to speak with Chief Josh Adams—Julie Adams's ex-husband—to report Petitioner as abusive, bypassing standard police reporting protocols.

c. The "Anonymous" Letter

Petitioner alleges that on February 23, 2025, an anonymous letter was mailed to Julie Adams accusing Petitioner of various misdeeds. Petitioner testified that the handwriting on the envelope belongs to Respondent and noted that the specific phrasing in the letter (e.g., regarding Petitioner's lack of self-awareness and failure to spend Christmas with his children) mirrored text messages Respondent sent to him on the same day.

d. Improper Access to and Use of Sealed Court Records

Petitioner alleges Respondent engaged in a "pattern of proxy harassment" by improperly gaining access to a ruling classified as private in a separate legal matter involving his divorce from his ex-wife. Petitioner characterized this as an effort to "surveil, interfere, and retaliate through inappropriate channels."

III. Interference with Employment:

Petitioner alleges that Respondent's conduct has directly resulted in the loss of his livelihood.

a. Fredette Family Foundation

Petitioner called witness Al Fredette, who testified that Petitioner was terminated from his position as President of the Fredette Family Foundation "exclusively" because of the viral video posted by Respondent that portrayed Petitioner as abusive.

b. Murdock Hyundai

Petitioner alleges that a subsequent offer of employment from Murdock Hyundai was withdrawn after the employer received an unsolicited phone call from a family member and became aware of the negative social media narrative cultivated by Respondent.

IV. Physical Surveillance and Confrontation:

Petitioner alleges incidents of physical confrontation and surveillance as part of the course of conduct.

a. Hospital Incident

Petitioner alleges that in October 2023, Respondent provided misinformation regarding a protective order to hospital staff at Utah Valley Hospital while Petitioner was attempting to visit another daughter following brain surgery, resulting in his eviction from the premises.

b. Tracking Device

In his initial petition, Petitioner alleged a tracking device was found in his vehicle in 2022. The Court notes that subsequent testimony suggested this may have been placed by Respondent's brothers, though Petitioner attributed the action to Respondent in his Petition.

LEGAL STANDARD

To obtain a civil stalking injunction, a petitioner must establish, by a preponderance of the evidence, that Respondent has committed the offense of stalking. *Baird v. Baird*, 2014 UT 08, ¶ 22, 322 P.3d 728. The substantive definition of stalking is derived from the Utah Criminal Code, specifically Utah Code section 76-5-106.5. A respondent commits stalking when she

intentionally or knowingly engages in a "course of conduct" directed at a specific person and knows or is reckless as to whether the course of conduct would cause a "reasonable person" to fear for that person's safety (or the safety of a third person) or to suffer other emotional distress. Utah Code 76-5-106.5(2).

The first step in the stalking analysis is establishing a "course of conduct," defined as "two or more acts directed at or toward a specific individual." *Anderson v. Deem*, 2023 UT App 48, ¶ 25, 530 P.3d 945. These acts may include, but are not limited to, following, monitoring, observing, photographing, surveilling, threatening, or communicating to or about a person. Utah Code 76-5-106.5(1)(a)(i)(A). Such acts may be committed directly, indirectly, or through third parties. *Id.* (1)(a)(i)(A)(I). Courts must view the alleged acts cumulatively rather than in isolation. *Anderson*, ¶ 28. Stalking is, by its very nature, an offense of repetition. *Butters v. Herbert*, 2012 UT App 329, ¶ 12, 291 P.3d 826. Therefore, a court errs if it analyzes incidents in a vacuum to determine if each individual act is independently fear-inducing. *Anderson v. Deem*, ¶ 24. However, the acts must be distinct. As the appellate court has previously held, acts occurring simultaneously—such as observing a victim while photographing them—constitute a single act for the purposes of the statute and do not, by themselves, establish a course of conduct. *Hardy v. Hardy*, 2020 UT App 88, ¶ 8, 467 P.3d 931.

The crux of a stalking analysis often lies in determining the second element: If Respondent knew or was reckless as to whether the course of conduct would cause a *reasonable person* to fear for their safety or suffer emotional distress. Crucially, this inquiry utilizes an objective standard. *Anderson*, ¶ 29. The subjective effect of Respondent's conduct on the specific petitioner is technically irrelevant to the determination of whether the statutory element is met. *Corona-Leyva v. Hartman*, 2022 UT App 45, ¶ 22, 509 P.3d 236. The statute does not require

proof that Petitioner actually experienced fear or distress, but rather that the conduct would cause a reasonable person in Petitioner's circumstances to experience such reactions. *Baird*, ¶ 25. This objective approach protects defendants from being charged with conduct that would harass only an "unreasonably sensitive or paranoid victim." *Id.* ¶ 27.

While the standard is objective, it is not abstract. The statute explicitly defines a "reasonable person" as "a reasonable person in the victim's circumstances." *Anderson*, ¶ 29. This creates what the Utah Supreme Court has termed an "individualized objective standard." *Id.* Under this standard, the Court must consider the entire context surrounding Respondent's conduct. *Baird*, ¶ 26. Conduct that appears benign to an outside observer may constitute stalking when viewed in the context of the parties' history. *Id.* The classic illustration of this principle is that sending a dozen roses may seem loving to a casual observer but could be terrifying to a victim when understood in the context of an abusive history. *Id.*

With respect to defining emotional distress, Utah courts previously relied on *Salt Lake City v. Lopez* to define emotional distress as conduct that was "outrageous and intolerable." *Baird.* ¶ 34. The Supreme Court of Utah clarified that the 2008 amendment to the stalking statute supplanted the *Lopez* standard. *Id.* ¶ 39. The current statutory definition requires proof of "significant mental or psychological suffering," not that the conduct offends generally accepted standards of decency. *Id.* To ensure a holding comports with the individualized objective standard, a court must consider the "entire context" surrounding Respondent's conduct. *Id.* ¶ 26. Drawing from *Baird* and subsequent jurisprudence, the Court must weigh the following non-exhaustive factors:

(1). **The Victim's Background:** The Court must consider the victim's personal history and circumstances.

(2). **Knowledge of and Relationship with Respondent:** The nature of the parties' prior interactions is critical context.

(3). **History of Abuse:** Any history of domestic violence or abuse between the parties colors how a reasonable person in the victim's position would interpret Respondent's actions.

(4). **Proximity to Children:** The location of the alleged stalking, particularly if it occurs near the victim's children, is a relevant factor.

(5). **Cumulative Effect:** The Court must assess the cumulative effect of Respondent's repetitive conduct over time. Actions that seem innocuous in isolation (e.g., driving past a house or sending a text) can become distressing when repeated or combined with other hostile acts.

(6.) **Knowledge of Vulnerability:** The Court should determine whether Respondent knew of a particular vulnerability of the victim and exploited it.

(7.) **Impact on Livelihood:** Conduct that damages a reputation, relationships, or livelihood may cause a reasonable person emotional distress, even if the communications are not made directly to the victim.

Baird, ¶ 27. *See also Anderson v. Deem,* ¶ 29 and *State v. Miller*, 2023 UT 3, ¶¶ 83-86, 527 P.3d 1087 (noting that the factors listed in *Baird* are not exhaustive of the behaviors "that could, in certain circumstances, cause a victim emotional distress").

In summary, the legal standard for stalking in Utah requires a dual finding: (1) Respondent intentionally engaged in a course of conduct consisting of two or more acts directed at Petitioner; and (2) Respondent knew or was reckless as to whether this conduct would cause a reasonable person *in the victim's specific circumstances* to fear for their safety or suffer significant emotional distress. By applying the *Baird* factors and any other relevant factors and

viewing the conduct cumulatively rather than in isolation when determining whether a dual finding can be made, the Court can ensure the application of the proper individualized objective standard.

FACTUAL FINDINGS FROM THE MULTI-DAY EVIDENTIARY HEARING

I. Electronic Communications and Social Media Activity:

a. The "25 Years of Abuse" Video

Central to Petitioner's claim of stalking is a video originally posted to the social media platform TikTok, which Petitioner contends was created and disseminated by Respondent to cause him significant emotional distress and reputational harm. This video, often captioned or referred to as "25 Years of Abuse," was admitted into evidence over Respondent's objection during the evidentiary hearing. The Court reviewed the video content, the testimony regarding its creation, and the arguments regarding its dissemination.

The video in question appears to be a compilation or montage of various video clips rather than a single continuous recording. The primary subjects visible in the footage are Petitioner, James Blair Giles, and his former spouse, Cynthia Giles. Respondent, Anne Elizabeth Kelshaw, admitted to filming the content. The version of the video currently accessible online and presented to the Court is a "duet" or repost by a social media influencer known as "Robbie Harvey." The video features a split-screen format: the original footage of Petitioner and his ex-wife appears at the top, while Mr. Harvey appears in the bottom portion of the screen, wearing a hoodie and narrating at times.

The video is captioned "25 Years of Abuse" and includes audio of a series of domestic arguments between Petitioner and Cynthia Giles, who is Respondent's mother and was then Petitioner's wife. The video contains captions of commentary written by Respondent during the

video. Petitioner contends the video presents a "false narrative" and falsely characterizes him as an abuser.

The video clips in the montage were recorded inside Petitioner's private residence in what appears to be the living room and/or family room and/or kitchen. Petitioner testified he was unaware he was being recorded at most of the times in the video, though at the end of the video he speaks directly into the camera to Respondent while Respondent is filming him, acknowledging that she is doing so. The video is not a single event but a compilation of clips recorded over a period of time. While the specific dates of every clip are not definitively established, testimony suggests the recordings occurred over a span of months or years prior to the posting. Respondent testified that she still had braces in some of the recordings, placing those portions around 2020 or 2021. Respondent posted the video publicly on social media in 2023. Petitioner testified that the video was posted during the pendency of his divorce proceedings, at the time he filed a specific motion regarding a psychological evaluation for his ex-wife.

The parties offer starkly contrasting narratives regarding the purpose of this video. Respondent testified that her intent was to expose what she perceived as Petitioner's true character. She stated she was "tired of him looking like the good guy" in public while acting differently "behind closed doors." She described the video as an effort to "unmask" the public image Petitioner portrays. She further testified that she posted it to show what her family had experienced.

Petitioner contends the video is a malicious, retaliatory act designed to "annihilate" his career and reputation. He argues the title "25 Years of Abuse" is demonstrably false and defamatory, noting that Respondent was not yet 25 years old at the time she posted the allegations. He asserts the video was edited out of context to create a harmful narrative.

To defend herself against the stalking allegation regarding the "25 Years of Abuse" video, Respondent explicitly argued that Petitioner consented to being recorded and gave permission for the videos to be posted. Respondent introduced two video exhibits to support the claim of consent.

In the video identified as Respondent's Exhibit A, Petitioner, on camera, says, "Now that you're recording . . ." Respondent, behind the camera and not visible, replies, "I've been recording for the past 30 minutes." Petitioner then states, "Good. Great. Continue to record." Respondent contends that this exchange shows Petitioner acknowledging her recording Petitioner and indicating his consent and comfort with her doing so. In the video identified as Respondent's Exhibit B, while Respondent was recording Petitioner and telling Petitioner she would post the videos online, Petitioner, on camera, stated: "Go ahead. Nothing is embarrassing for me. You don't have that kind of power. I don't care about any of that, OK? You understand? . . . . I can't wait. Fantastic. I can't wait. Please go for it. . . . As long as you're on your own cell phone plan, I don't care what you do." Based on the testimony provided during the evidentiary hearing held on October 31, 2025, these videos marked as Respondent's Exhibit A and Exhibit B were taken in approximately 2020 or 2021. Respondent initially estimated the dates of the video clips as "December or January" of 2023, but she corrected her testimony after realizing that the videos depicted her living in Petitioner's home and wearing orthodontic braces, events that more closely align with having occurred in 2020 or 2021 rather than 2023.

During closing arguments, counsel for Respondent argued that Petitioner "literally dared my client to do so" and "essentially begged for that kind of exposure." He further argued that because Petitioner "authorized my client to record him" and said, "I can't wait for you to post the videos," he cannot subsequently claim to be a reasonable person suffering significant emotional

distress when she followed through with the actions he permitted. Counsel also contended that Petitioner's statements, such as "Nothing is embarrassing for me," undermined his claims of distress, asserting that "someone who begs for that kind of exposure cannot now claim significant distress."

For his part, Petitioner argued that these statements were not valid consent but rather "excited utterance[s]" made out of emotion during harassment. He contended that a statement he made years prior in 2021 did not constitute consent for the specific "25 Years of Abuse" video posted years later.

The Court finds that Respondent created the video montage and directly posted it and disseminated it in several places on the internet.

b. Third-Party Dissemination of Video through Robbie Harvey

Petitioner alleges Respondent shared this video with Robbie Harvey. However, during testimony, Respondent denied directly transmitting the video to Harvey. She testified that she did not communicate with him prior to the reposting and that Harvey's platform model involves independently finding and reposting stories regarding abuse. As noted, the edited version reposted by Robbie Harvey is captioned "25 Years of Abuse," and includes an introduction by Harvey stating, "Take a look at this video… from his daughter." The video was first disseminated publicly on the internet by Respondent, specifically on the social media platforms TikTok and Facebook. On September 16, 2025, the Court took judicial notice of Google search results, which confirmed the video's continued presence on "The Robbie Harvey" TikTok page, with view counts exceeding 260,000.

The Court finds that Respondent actively took steps to facilitate Robbie Harvey obtaining the video montage and posting and promoting it on his social media platform.

c. GoFundMe Campaign

The video montage was also linked in a GoFundMe fundraising campaign titled "Support for Cynthia and her seven children." The GoFundMe campaign was organized and managed by a third party, Candice Mason Kulbeth, who describes herself as a "digital creator" and is a close family associate of Respondent. While Petitioner alleges Respondent acted in concert with Ms. Kulbeth to utilize this campaign as a proxy for harassment, Respondent testified that she did not create the campaign herself but admitted Ms. Kulbeth is a close friend of the family. Respondent acknowledged communicating with Ms. Kulbeth regarding the campaign but testified she lacks the authority to force Ms. Kulbeth to remove the content.

Petitioner testified—and the Court verified through judicial notice—that after Respondent removed the "25 Years of Abuse" video from her personal social media pursuant to the Court's order, the hyperlink on the GoFundMe page was altered. Specifically, the link, which originally directed viewers to Respondent's TikTok, was changed to direct viewers to the third-party repost of the video by influencer "Robbie Harvey." During the hearing on September 16, 2025, the Court took judicial notice of the specific mechanics of this redirection. Upon navigating to the GoFundMe page linked from Ms. Kulbeth's Facebook profile, the Court clicked the "copy and paste the link" option provided for context. The Court found that this link directed the user to the Robbie Harvey version of the video, confirming Petitioner's allegation that the source material had been switched to ensure continued public access to the allegations despite the temporary injunction.

Ms. Kulbeth maintained a public Facebook page where a "pinned post" urged viewers to watch the video and donate. The fundraising campaign itself was titled "Support for Cynthia and her seven children." The text of the campaign described Petitioner's ex-wife, Cynthia, as facing

"immense financial distress" and lacking resources. The creation of the GoFundMe followed the initial viral success of Respondent's video. The critical modification of the hyperlink—switching from Respondent's taken-down video to the Robbie Harvey repost—occurred after the issuance of the temporary stalking injunction by this Court in March 2025. Petitioner argued that this change was made specifically because Respondent's personal link had been deactivated in compliance with the Court order, thereby allowing the narrative to remain live during the pendency of these proceedings. When questioned why the content remained up despite the injunction, Respondent testified she asked Kulbeth to take it down because it was "causing a lot of chaos," but that Kulbeth did not comply. Respondent asserted she had "done everything within [her] power" and could not force a third party to act.

The Court finds that Respondent actively coordinated with Kulbeth so that the video montage appeared on social media sites managed by Kulbeth and so that it linked to the Robbie Harvey site.

d. Harassing Text Messages

There are four distinct clusters of allegedly harassing text message communications that relate to the stalking allegation:

i. The "Naughty" and "Grinch" Texts (December 22–24, 2024)

On or about December 24, Respondent sent a text message stating, "if you don't want to be posted to the public for being naughty then don't be naughty." Additionally, in an exchange regarding Petitioner's demeanor, Respondent asked what turned him into "such a Christmas Grinch." Respondent testified these messages were sent out of emotion following a conversation with her mother regarding Petitioner's alleged failure to pay child support, which she claimed affected her siblings' Christmas.

ii. The "It's My Turn" Texts (January 27, 2025)

On January 27, 2025, Respondent sent text messages to Petitioner regarding Petitioner's new relationship with his girlfriend Julie Adams. Specifically, Respondent wrote, "I can't wait for her to find out that you actually suck." Most notably, Respondent wrote, "You tortured me for 20 years, now it's my turn." This date coincided with Petitioner introducing his minor sons to Ms. Adams.

iii. The "Self-Aware" and "Sullivan Video" Texts (February 20, 2025)

On the same day an anonymous letter was postmarked to Ms. Adams, February 20, 2025, Respondent texted Petitioner stating, "I just thought I'd remind you of the only time you've ever been self-aware." Respondent then attached a video clip of Petitioner from three years prior (one of the clips that appeared in the 25 Years of Abuse montage) and then texted to Petitioner that he "will never win," mocking the same words that Petitioner said to Respondent years earlier in the video clip. Respondent admitted in this text exchange that she was "proud of" the 25 Years of Abuse video. In this same text message exchange, Respondent threatened, "Next thing I'll be doing is sending Julie the video of you screaming at Sullivan" (referring to Petitioner's son). Additionally, the record reflects a text message in which Respondent stated to Petitioner, "I'll be flipping you off every time I see you the rest of my life." While Petitioner did not explicitly date this specific statement during cross-examination, in closing argument he grouped it directly with the other February 20, 2025, text messages, and the Court finds that date is correct.

iv. The "Rainbows and Butterflies" Texts (February 23, 2025)

After Petitioner confronted Respondent through text message regarding the anonymous letter sent to Julie Adams, Respondent texted back, "If only life worked that way when you torture your family their entire life. Karma bites. Your life isn't going to be rainbows and

butterflies now that you don't live with us." In this exchange, Respondent explicitly denied writing the anonymous letter to Julie Adams, stating "Nope, I didn't" and "No idea what you're talking about."

Differing Perspectives Regarding the Text Exchanges

Respondent testified that her texts were often reactions to "acting out of emotion" due to stress over family finances and Petitioner's treatment of her mother. Regarding the threat to send the video of Petitioner screaming at his son, Respondent admitted she "thought about sending" it to "warn" Petitioner's girlfriend about who she was involving herself with. She explicitly stated her intent was to ensure Petitioner could not "hide" his alleged private behavior from the public.

Petitioner contends these messages were calculated to cause emotional distress and fear. He points to the following text message exchange, which the Court finds to accurately reflect the parties' communications:

Respondent: (attaching the video clip of Petitioner, several years earlier, speaking directly into the camera Respondent was holding): "I just thought I'd remind you of the only time you've ever been self-aware. The video is just for kicks and giggles. And to remind you that you will never win."

Petitioner: Lizzy, I've asked you to please stop. You've done enough to hurt me, made me lost jobs and emotionally damaged me. It's not okay to keep this up and to keep harassing me. If you are sad I'm sorry and I've said we can talk but you keep going and so now you must stop. Going to Julie's family, posting videos, going to the police department to talk bad about me and accuse me is not okay. You know I love you but stop. And to remind you, you were flipping me off behind the screen which would make any dad unhappy and you weren't going to win doing that to me and staying at home. So please stop. I'm not okay with this. I love you. Please.

Respondent: "You made yourself lose your job dude. Take responsibility for once."

Petitioner: "Your video, Lizzy. Your efforts to hurt me bc you're mad. Just Stop. I love you."

Respondent: "And I'll be flipping you off every time I see you for the rest of my life hahaha. My video yes. I'm proud of it. But the videos themselves are all you. Do you understand how emotionally immature you sound."

Petitioner: "Untruthful videos the way you described and posted them to hurt me. Just stop please."

Respondent: "Poor guy. You hurt us for 25 years. Next thing I'll be doing is sending Julie the video of you screaming at Sullivan. Omg.!!! No you stop! Wah wah! Hahahaha. You're comical. I also have this super fun recording of my grandpa telling me that the police are gonna pick me up and put me in jail. Maybe I'll send that one to her."

Petitioner: "If you keep this up I will have no other option but to get a protective order against you. You are hurting me and I don't like it and you are an adult. PLEASE STOP. What you did and are doing is not okay. It is vengeful and wrong. And hurtful. And you must stop. I love you and so does Pappy and all the Giles family. Just stop."

Respondent: "Not my problem you made the choice to take my younger brothers over to a home where Julie is treating her kids so kindly and has no idea how you treat yours. Even Sullivan and McKay called you out on your bullshit. I'll send those screenshots to Julie too."

Petitioner: "I'm not gonna let you keep harassing me and hurting me the way that you have. I can't do that. Mo matter how much I love you. You must stop. Right now. This is not a joke."

Respondent: "And stop using the word "safe." It's so funny. I'm not harassing you I'm calling you out. Stop saying I love you hahahaha. It makes your texts sound so weird and forced."

Petitioner: "You will never understand until you have children. Now stop."

Respondent: "My children will want to have a relationship with me. Everything with you is forced and I already know once the younger boys turn 18 you won't be in contact with any of us. And that's on you. You did this to yourself. You made your bed, sleep in it."

Petitioner also highlights the following text exchange, which the Court finds to accurately reflect the parties' communications:

Respondent: "I can't wait for her to find out that you actually suck. She looks way too nice to be going out with a mean man. And quite hypocritical of you to be living with a woman you aren't married to. Sounds very Christlike to me. What do you tell her when she asks why you don't talk to your older kids? You should show her the recording of you screaming at your 17-year old son that she met tonight. We'll see how long your sweet talking lasts. It's a shame that's not who you actually are. Best of luck to you."

Petitioner: "Lizzy you have to stop sending messages like this. I love you."

Respondent: "You tortured me for 20 years, now it's my turn. So no lol."

Petitioner: "Stop."

Respondent: "No."

II. Third-Party Contact and Interference with Relationships

The Court identifies four distinct sub-incidents within this category: (a) unsolicited contact with the Adams family daughters; (b) an in-person visit to Chief of Police Josh Adams; (c) the anonymous letter sent to Julie Adams; and (d) improper access to and use of sealed court records.

a. Unsolicited Contact with the Adams Family Daughters

Respondent initiated contact with Taylor Adams and Riley/Hunter Adams (the adult daughters of Petitioner's girlfriend, Julie Adams). This occurred shortly after Petitioner introduced his minor sons to Julie Adams. The Court finds that Respondent had never met these individuals prior to sending these communications. On February 2, 2025, Respondent sent unsolicited direct messages via Instagram to the Adams daughters. The messages stated, "I have some things I want to make sure your mom's aware of before she gets too attached," and warned that Petitioner is abusive. On the following day, February 3, 2025, Respondent sent a follow-up message containing a hyperlink to the "25 Years of Abuse" video she had posted on TikTok, urging them to "at least watch this TikTok video… and do with the information what you will." Respondent made the following statements in the February 3, 2025 Instagram message: "My dad is abusive." "I promise you his true colors have not come out." "I can also guarantee he's just using her for a place to live." "It sounds like my dad just tells your mom that my mom is crazy, which isn't true. My mom divorced him because he abused her and all of us." The messages included Respondent's phone number and an invitation to call her if they felt comfortable. One of the daughters responded: "Please don't contact me anymore."

Respondent testified her motivation was to "warn" the family about Petitioner because she did not want them to experience the same abuse she alleges she suffered. Both Petitioner and witness Julie Adams testified these messages caused fear and distress within the Adams household. Julie Adams noted it was "odd" Respondent contacted her daughters rather than her, suggesting the intent was to harm Petitioner rather than to protect anyone.

b. Visit to Chief Josh Adams

Respondent physically visited the workplace of Chief Josh Adams, the former Chief of Police for Orem, Utah, who is also the ex-husband of Petitioner's girlfriend, Julie Adams. This visit occurred in February 2025, immediately following the lack of response from the Adams daughters to Respondent contacting them. Witness Julie Adams testified Respondent went to the police station "immediately following" the daughters' refusal to engage. Chief Adams testified that Respondent bypassed the standard front desk reporting procedures and requested to speak with him directly. Respondent admitted she went to the station not to report a specific crime within that jurisdiction, but to speak about Petitioner and warn Chief Adams about him. She also sent an email to Chief Adams regarding Petitioner. Chief Adams testified that for a citizen to bypass the front desk to speak to the Chief about a personal matter was "abnormal" and inconsistent with how legitimate abuse victims typically report crimes.

Respondent testified she wanted to ensure Chief Adams was aware of the "abuse our family had received" to protect the Chief's ex-wife and children. Petitioner alleges this was an attempt to leverage police power and authority to intimidate him and create division between him and Ms. Adams.

c. The "Anonymous" Letter

An anonymous letter was sent to Julie Adams postmarked February 20, 2025. This coincides exactly with the date Respondent resumed texting Petitioner after a period of silence. The letter was sent anonymously and was delivered via U.S. Mail to Julie Adams's residence. During cross-examination, Respondent stated that she "knows who wrote it" but refused to identify the author. Petitioner alleges, based on handwriting and content similarities, that Respondent authored the letter or directed its creation. The letter contained the following disparaging remarks about Petitioner: "Blair is financially/emotionally/verbally/physically abusive toward his family." "He also is controlling, gaslights, and is a male chauvinist." "Many times he has ignored the needs of his down syndrome son." "He dresses nice while his boys have to wear hand me downs." "Blair does not have a relationship with any of his children." "His adult children have no contact with him." The letter mentions Petitioner's "inability to be self-aware." The Court finds similarities between the letter and the text messages sent by Respondent to Petitioner at approximately the same time. On the exact day the letter was postmarked, Respondent texted Petitioner: "I just thought I'd remind you of the only time you've ever been self-aware." Additionally, the letter claims Petitioner has not spent Christmas with his children in years. Respondent's texts to Petitioner on February 23 mirrored this specific allegation.

The coincidental timing of the postmark (February 20) and the specific terminology used in both the letter and Respondent's texts on that same day strongly suggests, at a minimum, coordination between Respondent and the author of the letter. The Court finds that Respondent either sent the letter, or caused someone else to send the letter, to Julie Adams.

d. Improper Access to and Use of Sealed Court Records

Petitioner alleges that Respondent possessed specific knowledge of private motions filed in Petitioner's divorce case to which she was not a party. Specifically, Petitioner testified that he

had asked the divorce court for a "psychological evaluation" for Respondent's mother. Petitioner testified, "How she knew I asked for a psychological evaluation, I don't know." Petitioner alleges this knowledge suggests a "collaborated effort," implying the involvement of Respondent's mother, Cynthia Giles, who was the opposing party in the divorce and the subject of the motion in question. He contends that Respondent used this inside knowledge to launch a preemptive or retaliatory social media strike (the video) to assassinate his character at the precise moment he was seeking legal relief (the psychological evaluation) in court. He asserts this was calculated to cause "emotional distress" and influence the perception of him during the divorce.

While Respondent did not explicitly testify regarding how she obtained the specific filing information, she testified that she is "very close with all of [her] siblings" and speaks with them "on a daily basis," and that her mother had shared information with her regarding Petitioner's behavior. Respondent's counsel argued that these issues concern arguments and conduct that "properly belong" to the divorce case, rather than a stalking injunction. The Court also notes testimony regarding Respondent's physical presence during sensitive legal proceedings. Specifically, Petitioner testified that during a "property division" meeting that occurred as part of the divorce action, Respondent was present "despite me not [wanting] her to be there."

III. Interference with Employment

The Court identifies two primary incidents of alleged employment interference: (a) The termination of Petitioner's position with the Fredette Family Foundation; and (b) The rescission of an employment offer from Murdock Hyundai.

a. Termination from the Fredette Family Foundation

Petitioner was involuntarily terminated from his position as President of the Fredette Family Foundation. Petitioner served as President of the Foundation from 2011 until 2024. On

March 23, 2024, Al Fredette, the director and the current secretary of the Foundation, sent a termination letter to Petitioner stating, "It is with regret we inform you that the Fredette Family Foundation board has decided the need to end your employment... effective March 31st, 2024." Respondent's creation and posting of a viral TikTok video was cited as the cause of termination. The letter explicitly stated the decision was a "direct result of personal family matters that have become very public as a result of a viral video posted publicly on TikTok by your daughter Lizzie Kelshaw." The termination on March 31, 2024, followed the viral spread of Respondent's video in early 2024.

Al Fredette testified that the Foundation's operations were intimately tied to Petitioner's personal life; the Foundation's office was located within Petitioner's home, where interns and workers regularly visited. He further testified that the video was "exclusively" the reason for the termination. He stated that after receiving calls from a concerned board member regarding the video (which had over a million views), the board determined it was "detrimental to move forward with all this out there in the public." Mr. Fredette testified that absent the video, Petitioner would "still be president today."

On cross-examination of Al Fredette, Respondent's counsel introduced text messages between Petitioner and Jimmer Fredette, Al Fredette's son and a director of the foundation. In these texts, Jimmer Fredette indicated that Petitioner could not return to work until the "smoke completely clear[s]" regarding the divorce and family situation. Al Fredette conceded on cross-examination that even if the video were removed, Petitioner would not be rehired until the divorce was finalized, acknowledging the termination was entangled with the broader "family situation." However, Al Fredette maintained that the messages from Jimmer Fredette about the divorce and the "smoke clearing" never would have occurred "if it were not for the video."

The Court finds that Respondent did not intentionally or knowingly engage in any conduct or communication with Al Fredette or the Fredette Foundation regarding Petitioner.

b. Rescission of Offer from Murdock Hyundai

Petitioner testified that he had secured a job offer from Murdock Hyundai in Utah County approximately "in the last three weeks" prior to the September 16, 2025, hearing date, after vetting and recommendations from athletic directors and community members. He provided an affidavit of employment to the Court. However, shortly before his start date, the offer was withdrawn. Upon further inquiry by Petitioner, Murdock Hyundai informed Petitioner that it received a call two days prior from someone claiming to know Petitioner's family. This caller directed the employer to the social media narrative and the video regarding the allegations of abuse.

Petitioner alleges this interference is part of Respondent's "course of conduct," or that of her proxies (such as Candice Kulbeth or other family members), to "assassinate his character" and ensure he cannot maintain employment. Petitioner testified the caller to Murdock Hyundai relayed the "same narrative" found in the video Respondent posted. For her part, when questioned by the Court, Respondent testified she did not speak to anyone at Murdock Hyundai, did not send anything to them, and did not tell them anything about her experiences.

The Court finds that Respondent did not intentionally or knowingly engage in any conduct or communication with Murdock Hyundai regarding Petitioner.

IV. Physical Surveillance and Confrontation:

The Court now addresses two specific allegations: (a) the confrontation at Utah Valley Hospital; and (b) the placement of a tracking device on Petitioner's vehicle.

a. The Confrontation at Utah Valley Hospital

This incident involved a verbal confrontation and the subsequent removal of Petitioner from Utah Valley Hospital premises in October 2023. The parties were present to visit Ellie Giles, Petitioner's daughter and Respondent's sister, who had recently undergone major brain surgery for hydrocephalus and was in a recovery state. Respondent was present in the room when Petitioner and Petitioner's father arrived. Respondent testified that upon their arrival, she stood up to "fend for" her sister, who was disoriented. A dispute arose regarding Petitioner's right to be present. Petitioner alleges that Respondent provided "misinformation" to hospital staff regarding a protective order, leading staff to believe his presence was illegal. Respondent testified that Petitioner began "freaking out" and "yelling at all of the nurses" in the hallway, asserting his rights as a father. Hospital staff asked the patient (Ellie) if she wanted her father present; she indicated "No". Consequently, Petitioner was asked by security officers to leave.

Petitioner alleges this incident constitutes stalking because Respondent used the situation to harass him and provide false information to staff to facilitate his eviction from the premises. He contends he had a legal right to visit his daughter despite a protective order regarding his ex-wife, noting the order allowed him to have visitation and required a 50-foot distance which he claims to have observed.

Respondent testified her motivation was to protect her sister, who had stated multiple times she did not want Petitioner there. She described the environment as a "shock" to her sister, the patient, and viewed her actions as enforcing her sister's wishes and the boundaries of the existing protective order held by her mother.

The Court finds that Respondent did not intentionally or knowingly engage in any conduct or communication with Utah Valley Hospital that could be considered as stalking Petitioner.

b. The Tracking Device

A physical tracking device was placed on Petitioner's vehicle to monitor his location. The device was attached to Petitioner's vehicle. The petition alleges this occurred in 2022. Respondent testified, and it was not effectively rebutted, that she was not aware of the tracking device at the time it was placed, but she later learned that her brothers were responsible for it. She stated that her brothers placed the device "as a joke to be funny."

The Court finds that Respondent did not place a tracking device on Petitioner's vehicle.

CONCLUSIONS OF LAW

"[S]talking consists of two elements. First, a person must intentionally or knowingly engage in a course of conduct directed at a specific person. Second, that person must know or should know that the course of conduct would cause a reasonable person to fear for the person's own safety [or the safety of a third individual] or suffer other emotional distress. A district court may enjoin an alleged stalker only if both elements are met." *Ragsdale v. Fishler*, 2021 UT 29, ¶ 25, 491 P.3d 835; *see* Utah Code 76-5-106.5(1)-(2).

A. Course of Conduct

The Court finds and concludes that the following acts are acts that Respondent committed and directed at or toward Petitioner:

1. Respondent created a video montage of Petitioner arguing with his then-wife in Petitioner's home, thereby constituting photographing of Petitioner under Utah Code Section 76-5-106.5.
2. Respondent posted the video montage of Petitioner on the internet, thereby using the internet to communicate about an individual under Section 76-5-106.5

3. Respondent caused or facilitated Robbie Harvey to post the video montage on his social media platform, thereby using the internet to communicate about Petitioner indirectly and through a third party under section 76-5-106.5.
4. Respondent sent to Petitioner the text messages "if you don't want to be posted to the public for being naughty then don't be naughty" and "such a Christmas Grinch" December 22-24, 2024, thereby using text messaging to communicate to Petitioner under Section 76-5-106.5.
5. Respondent sent to Petitioner the text messages "I can't wait for her to find out that you actually suck" and "You tortured me for 20 years, now it's my turn" on January 27, 2025, thereby using text messaging to communicate to Petitioner under Section 76-5-106.5.
6. Respondent sent to Petitioner the text messages, "I just thought I'd remind you of the only time you've ever been self-aware;" "Next thing I'll be doing is sending Julie the video of you screaming at Sullivan;" and "I'll be flipping you off every time I see you the rest of my life" on February 20, 2025, thereby using text messaging to communicate to Petitioner under Section 76-5-106.5.
7. Respondent sent to Petitioner the text message "If only life worked that way when you torture your family their entire life. Karma bites. Your life isn't going to be rainbows and butterflies now that you don't live with us" on February 23, 2025, thereby using text messaging to communicate to Petitioner under Section 76-5-106.5.
8. Respondent sent unsolicited Instagram messages disparaging Petitioner to the children of Julie Adams on February 2, 2025, thereby communicating about

Petitioner directly, indirectly, or through a third party, under Section 76-5-106.5.

9. Respondent visited Orem City Police Chief Josh Adams in February 2025 and communicated to him about Petitioner directly, indirectly, or through a third party under Section 76-5-106.5.
10. Respondent sent, or caused someone else to send, an anonymous letter about Petitioner to Julie Adams on February 20, 2025, thereby communicating about Petitioner directly, indirectly, or through a third party under Section 76-5-106.5.

Because these acts total more than two, the Court finds they qualify as a course of conduct committed by Respondent under Section 76-5-106.5(1).

The Court makes the following further findings and conclusions:

1. Respondent did not access Petitioner's court records in his divorce case.
2. Respondent did not engage in any act involving Al Fredette or the Fredette Family Foundation regarding Petitioner.
3. Respondent did not engage in any act involving Murdock Hyundai regarding Petitioner.
4. Respondent did not intentionally or knowingly engage in any conduct or communication with Utah Valley Hospital that could be considered as part of a course of conduct regarding Petitioner under Utah stalking statutes.
5. Respondent did not engage in any act involving placing a tracking device on Petitioner's vehicle.

B. Knowledge or Recklessness as to Effect of Conduct

The Court must next consider whether Respondent knew or should have known that the course of conduct she engaged in would cause a reasonable person to fear for the person's own safety or the safety of a third individual or to suffer other emotional distress. Utah Code 76-5-106.5(2). "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required. Utah Code 76-5-106.5(1). Crucially, in deciding this question, the Court must use an individualized objective standard, which means that the Court must determine whether Respondent's conduct would cause a reasonable person in Petitioner's circumstances to suffer fear for self or another or suffer other emotional distress. *Corona-Leyva*, 2022 UT App 45, ¶ 31; *Ragsdale*, 2021 UT 29, ¶¶ 44, 48.

In *Anderson*, the appellate court held that the trial court erred by "looking at the individual acts that created the course of conduct rather than the course of conduct and other relevant incidents cumulatively." *Anderson*, 2023 UT App 48, ¶ 30. Employing this "cumulative" standard dictated by the appellate courts, the Court concludes that Respondent certainly knew, or should have known, that her combined actions would cause a reasonable person in Petitioner's circumstances to suffer significant mental or psychological suffering. Indeed, Respondent explicitly indicated her knowledge of the likely effect of her actions when she texted Petitioner that it was her turn to "torture" him. Respondent texted Petitioner repeatedly to demean him and threaten him with actions she said she would take to hurt him and harm his reputation. Respondent also contacted third parties whom she did not know, including Julie Adams, Josh Adams, and their children, to communicate derogatory information about Petitioner. When a reasonable person is trying to establish new relationships after a contentious divorce, it is elementary that a derogatory communication from a stranger to new people with whom the

person is trying to establish a good relationship will cause significant mental or psychological suffering to the person about whom the communications are made

The Court also finds and concludes that Respondent knew, or was reckless as to the fact that, creating, posting, and then causing further dissemination of a video portraying Petitioner in a negative light in his private residence would cause a reasonable person to suffer emotional distress. It is true that Petitioner indicated his consent to Respondent recording him and posting the recordings online, but Respondent did more than that. She waited two or three years after she took the videos to post them on the internet, until Respondent was in the middle of a contentious divorce case. Then, at that time she also facilitated a social media influencer, Robbie Harvey, to post the video on his site, where it gained millions of views. Furthermore, Respondent disseminated the video to a GoFundMe page discussing Petitioner's divorce case and facilitated creating links therein to the Robbie Harvey site. From her attitude and frame of mind when she compiled and disseminated the videos and communicated to Petitioner, it is clear that Respondent knew, or should have known, that posting and disseminating the videos in this fashion would cause a reasonable person in Petitioner's circumstances to suffer significant mental or psychological suffering.

Finally, even if Petitioner did give full consent to, and indicated his full comfort with, Respondent posting the videos online, the Court is required to consider all of Respondent's actions cumulatively rather than one by one. *Anderson*, 2023 UT App 48, ¶ 30. Therefore, the Court may not consider the social media video posts in isolation. Rather, the Court is required to also consider the repeated harassing text messages Respondent sent to Petitioner, as well as the numerous contacts and disparaging statements Respondent made to members of the Adams

family. Taken cumulatively, it is clear that Respondent knew these actions, in totality, would cause a reasonable person in Petitioner's circumstances to suffer emotional distress.

For all these reasons, the Court concludes that Respondent engaged in stalking of Petitioner and that Petitioner is therefore entitled to the entry of a stalking injunction against Respondent.

ORDER

The Court will enter a civil stalking injunction against Respondent. The Court concludes that it is appropriate to tailor the requirements of the civil staking injunction in this case to the specific harms a reasonable person in Petitioner's circumstances would suffer and steps Respondent can take to best ameliorate those harms. Therefore, the stalking injunction that will now be entered by the Court will include the following provisions and orders:

1. Respondent may not engage in stalking of the Petitioner, as defined and described in Utah Code Section 76-5-106.5 and Section 78B-7-701 and in this Ruling and Order.
2. Respondent may not contact in any way, directly, indirectly, or through a third person, any of the following people:

   James Blair Giles

   Julie Adams

   Hunter Adams

   Taylor Adams

   Rylee Adams

   Joey Gardner
3. Respondent must stay at least 300 feet away from Respondent's:

   Home [protected address]

Work address: 3 Cardross Lane, Columbia, SC 29209

Churches: 422 E 400 S., Vineyard, UT 84058 and 436 S. 2060 W., Orem, UT 84059

Respondent's silver Lexus SUV

Julie Adams's white Toyota sedan

4. On or before January 15, 2026, Respondent must write a hard-copy letter and mail it by U.S. mail, certified mail, return receipt and signature requested, to Robbie Harvey, at the best address Respondent can locate, using good-faith efforts, stating the following: "My name is Lizzy Kelshaw. The Fourth District Court, Provo, Utah, in civil stalking case number 250401294, has ordered me to ask you to take down from all your social media sites the video I created that is titled "25 Years of Abuse." Please remove any such videos now. If you have any questions, please email me at [Respondent's email address]. Thank you." Respondent must file with the Court proof of mailing on or before January 16, 2026. Respondent must also file all correspondence and mailing status updates for the letter that become available online, or otherwise, from the U.S. Post Office within 48 hours of any change in status.
5. On or before January 15, 2026, Respondent must write a hard-copy letter and mail it by U.S. mail, certified mail, return receipt and signature requested, to Candice Mason Kulbeth, at the best address Respondent can locate, using good-faith efforts, stating the following: "My name is Lizzy Kelshaw. The Fourth District Court, Provo, Utah, in civil stalking case number 250401294, has ordered me to ask you to take down from all your social media sites the video I created that is entitled "25 Years of Abuse," and any links to that video as found anywhere on the internet. Please remove any such videos and links now. If you have any questions, please email me at

[Respondent's email address]. Thank you." Respondent must file with the Court proof of mailing on or before January 16, 2026. Respondent must also file all correspondence and mailing status updates for the letter that become available online, or otherwise, from the U.S. Post Office within 48 hours of any change in status.

6. Respondent is also ordered not to post or say anything about Petitioner anywhere on the internet or on social media.

The accompanying Civil Stalking Injunction incorporates all terms of this Ruling and Order, and vice versa. Petitioner is ordered to retain a legal process server to serve the Civil Stalking Injunction on Respondent and file the return of service with the Court on or before January 15, 2026. Nevertheless, because Respondent is represented by counsel, the provisions of the Civil Stalking Injunction are effective immediately and are now in force.

This Ruling and Order and the accompanying Civil Stalking Injunction supersede and replace all prior versions of ex parte, temporary stalking injunctions or orders previously entered in this case.

After fully considering the evidence, arguments, and procedural posture of this case, the Court orders each party to bear his or her own costs and attorney's fees for the case.

IT IS SO ORDERED this 23rd day of December, 2025.

Judge Kraig Powell
Fourth District Court
State of Utah

ORIGINAL IF IN RED INK
STATE OF UTAH
FOURTH DIST. COURT • UTAH COUNTY •

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 250401294 by the method and on the date specified.

EMAIL: DARREN LEVITT DARREN@LEVITTLEGAL.COM

EMAIL: JAMES BLAIR GILES *private*

12/23/2025 /s/ CALLI STEPHENSEN

Date: _____ _____

Signature

APPENDIX E

The Order of the Court is stated below:
Dated: February 25, 2026 06:25:28 PM **/s/** VERNICE TREASE
District Court Judge

Adam M. Kaas (13267)
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2568 Washington Blvd., Suite 200
Ogden, Utah 84401
Telephone: (801) 689-3022
adam@richardskaas.com
Attorneys for Petitioner

IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

In the matter of the marriage of: CYNTHIA GILES, Petitioner, and JAMES BLAIR GILES, Respondent.	**ORDER MODIFYING DECREE OF DIVORCE** Case No.: 224906062 Judge Vernice S. Trease Commissioner Russell Minas

This matter came before the Court on the parties' ("Cynthia" and "Blair") Petition to Modify and the parties' Settlement Agreement and Stipulation to Modify Decree of Divorce ("Stipulation").

The Court, having reviewed the Stipulation submitted by the parties, being fully advised in the premises, and having entered the Findings of Fact and Conclusions of Law, hereby **ORDERS, ADJUDGES, and DECREES**:

1) Jurisdiction and Controlling Order: A Bifurcated Decree of Divorce was entered on December 2, 2024; a Decree of Divorce was entered on or around August 4, 2025, and this Court has continuing jurisdiction over the matters addressed in the Stipulation.

2) Children: The parties have four minor children: JSG born February 2008; RMG born September 2010; BJG born August 2013; and SJG born June 2017.

3) Grounds: Since the entry of the Decree, circumstances of the children or one or both of the parents have materially and substantially changed justifying the below minor modifications to the Decree.

4) Custody and Parent Time: Custody and parent-time shall stay the same as outlined in the Decree.

5) Transportation for Exchanges: The parties disagree on whether exchanges should be curbside or at a police station (or similar public, mutually agreed-upon neutral site). The location of exchanges is an issue reserved for decision by the Court.

6) Real Property. Paragraphs 55-60 of the Decree govern the parties' marital home. Under the Decree, Blair is entitled to half of the equity in the marital home. Within seven days of the Court signing this Order, Cynthia will pay Blair $210,000 for his share of the equity in the marital home.

7) Blair has been paying the mortgage on the marital home directly. Beginning February 2026, Blair shall no longer make the mortgage payments directly. Instead, Blair shall make all support payments directly to Cynthia as outlined below and Cynthia will pay the mortgage. Blair shall immediately sign whatever documents are necessary or give whatever authorization is necessary on the mortgage account to ensure that Cynthia has full access to the mortgage account

and authorization to deal with the lender directly, which will ensure Cynthia is able to make the February 2026 payment directly.

8) Assumption or Refinance. Once Cynthia has received the six consecutive support payments as outlined paragraphs 12-16 below, Cynthia will then have 90 days to remove Blair's name from the mortgage. Blair shall sign a quitclaim deed transferring title of the home to Cynthia as part of the process, which shall be held in escrow by the title/escrow company and released in conjunction with Blair's name being removed from the mortgage. If Cynthia has not removed Blair from the mortgage within 90 days after six months of consecutive support payments, the home shall be sold so that Blair's name will be removed from the mortgage. For clarity purposes, as long as Blair makes all of his required support payments from February through July, Cynthia's deadline to remove Blair's name from the mortgage shall be October 31, 2026. If Blair does not make all of his required payments from February through July, Cynthia's deadline to remove Blair from the mortgage shall be 90 days after Blair has made his required payments for six consecutive months.

9) If the marital home is sold pursuant to the provisions above, and the net equity (i.e. equity after the mortgage, closing cost, and realtor fees are paid) is over $425,000, Blair shall receive one half of the net equity in the amount over $425,000. If a sale becomes necessary, the parties shall use Heather Osmond as the realtor, or a mutually agreed upon realtor if Heather is unavailable, and shall follow the advice of the realtor in deciding what price the home will be listed for sale and when/if to make reductions to that price.

10) Personal Property. Each party is awarded the personal property in their possession with exception of the following, which is awarded to Blair.

All personal and business items
printer
golf clubs
books
baseball cards
camp chef grill
Croc pot
Blair's winter clothing/coats/ski clothing
Half of pictures and keepsakes
Ping Pong Table
E-bike (the adult one)
Moped, three black hard helmets, and battery charger (blue, from Bailey's)
Polish art (Ted Gorka 4 shutters)
Mercantile picture
The G in the kitchen downstairs
Lifetime table and chairs
Rocking chair
Luggage
Foundation Printer
Blendtec Blender
Portable Heater
Heating Pad
Lawn Mower and Lawn Equipment (wheelbarrow, axe, shovel, weed eater, blower including all chords and chargers)
Tools (drill, socket wrenches, hammer, screwdrivers, including all cords, cases, and chargers, etc.)
Travel carrier for luggage mounted on vehicle roof

11) Cynthia shall arrange to have the property delivered to Blair at his residence on February 21, 2026. If Cynthia finds that any items belonging to Blair are still in the home following the delivery, Cynthia shall promptly notify Blair and arrange to deliver the undelivered property. Cynthia warranted that she has operated in good faith so that Blair receives all of the property he is entitled to in working condition, including delivering half of the pictures, videos, and keepsakes that she herself would want if she were in Blair's position, so that he has his fair share. Further, the E-bike will need its yearly tune-up, which costs about $300. Cynthia shall tune up

the bike before its February 21 delivery, and if there are other items that need to be fixed, Blair can have them fixed, and Cynthia shall reimburse Blair up to $2,000.

12) Child Support. Paragraph 35 of the Decree is modified as follows: For purposes of child support, Blair's income is imputed at $6,000 and Cynthia's income is imputed at $1,257. Blair's child support obligation is $1,500 per month, which shall be reduced to $1,341 starting June 1, 2026 when there are only three minor children remaining still in high school. Thereafter, child support shall adjust for each child according to Utah Code Annotated statutory guidelines, including when any child becomes 18 years old or graduates from high school during the child's normal and expected year of graduation. Child support will also end for a child who is legally emancipated in accordance with Title 80, Chapter 7, Emancipation.

13) Pursuant to paragraph 43 of the Decree, child support for the youngest child with special needs shall continue after he reaches the age of majority or graduates from high school, subject to any further order of the Court.

14) Alimony. Paragraph 43 of the Decree is modified as follows: Blair's alimony payments shall be as follows: from February 2026 through May 2026, Blair shall pay Cynthia $1,500 in alimony each month. For June and July 2026, Blair will pay Cynthia $1,659 per month in alimony. Beginning August 1, 2026, Blair will pay Cynthia $1,500 in alimony each month as long as he has made his full support payments from February through August.

15) Total Support payments. For clarity purposes, under the above paragraphs, Blair shall pay Cynthia $3,000 per month in total support (i.e. child support and alimony) from February through July 2026. As long as Blair makes each of those support payments, Blair's total support

shall then be $2,841 per month beginning August 1, 2026. If he does not, Blair's total support payments shall remain at $3,000 until he has made six months of consecutive payments.

16) Form of payment. Blair has been making his support payments through Venmo. For the first six months of payments, Blair shall make his support payments through Zelle or direct deposit into Cynthia's bank account. Once Blair has made six months of consecutive support payments that way, he can switch back to paying via Venmo if he prefers.

17) Pursuant to paragraph 43 of the Decree, the alimony portion of Blair's support payments shall be for the length of the marriage or terminate earlier upon Cynthia's remarriage, establishment of cohabitation, or death of either party as provided by statute.

18) Arrears. Under paragraph 49 of the Decree, the parties were directed to meet and confer on the amount that Blair is in arrears on his support payments. The parties stipulated that through January 2026 the amount of arrears on Blair's support obligation is between $77,000 and $81,000. In exchange for the other provisions outlined in the Stipulation, the parties stipulated to reduce the amount of arrears owed through January 2026 to $40,000, with the rest of the arrears being waived and forgiven. The $40,000 shall be paid from Blair's portion of the Fidelity account as outlined below. Once the $40,000 payment from Blair's IRA is made, all arrears through January 31, 2026 shall be deemed fully satisfied, waived, and resolved, with no further claims by either party.

19) Fidelity account. Paragraphs 8(e) and 52 of the Decree require the parties to equally divide the parties' Fidelity IRA account. Cynthia shall receive half of the account plus $40,000 from Blair's half of the account. The Fidelity account shall be divided as follows: Cynthia will

receive $183,383.33 from the account and the remainder of the account will go to Blair. This $183,383.33 includes Cynthia's one half as well as the $40,000 in arrears from Blair's share.

20) The parties shall work together to divide the Fidelity account within seven days of the Court signing this Order and will sign any documents necessary to do so. It is not anticipated that a QDRO will be required, but if one is, Cynthia shall pay the cost of that QDRO.

21) Third-Party Online Content. Within seven (7) days of signing the Stipulation, Cynthia shall (i) send a written email request and send a certified hard-copy letter and mail it by U.S. mail, certified mail, return receipt and signature requested, to Candice Mason Kulbeth requesting removal of her Facebook post and the GoFundMe campaign created for Cynthia's benefit, and (ii) send a similar written request to GoFundMe requesting removal of the campaign, and will report the campaign. Such requests shall include removal of Cynthia's name, image, and likeness; removal of any images or references to the parties' minor child S.J. G.; and removal of any links to or references to the parties' adult daughter's video content posted by Robbie Harvey subject to an existing stalking injunction order of the Fourth Judicial District Court (case #250401294).

22) Cynthia shall provide Blair, through counsel, copies of the requests and any correspondence or status updates received by Candice or the US Post Office within forty-eight (48) hours of receipt or any change in status. Nothing in the Stipulation shall be construed to waive either party's right to seek enforcement of the Stipulation or compliance with existing court orders in the event referenced content remains publicly accessible despite good-faith efforts.

23) All litigation dismissed. Within seven days of Court signing this Order, all pending litigation will be dismissed with prejudice including: (1) Blair's appeal; (2) Blair's motion to enforce; (3) Cynthia's countermotion to enforce; and (3) Blair's Petition to Modify (collectively the appeal, motions to enforce, and petition to modify are herein the "Litigation Documents."). With the parties' Stipulation, all allegations, issues, and disputes in this case between the parties leading up to the date of signing the Stipulation, including any allegations, issues, and disputes raised in the Litigation Documents, are fully resolved.

24) Tax Refund. Blair's prior counsel was holding a tax refund check from the parties' 2023 tax refund. The parties shall deposit and equally split that tax refund within 14 days of signing the Stipulation.

25) Other Provisions: All other provisions of the Decree not modified herein shall remain in full force and effect.

Court's signature located at the top of the first page of this document
END OF ORDER

APPROVED AS TO FORM:

/s/ James Blair Giles (with permission)
Signed by Adam Kaas with permission of James Blair Giles
James Blair Giles
Respondent

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of February, 2026, a true and correct copy of the foregoing **ORDER MODIFYING DECREE OF DIVORCE** was served on the following by the method indicated below:

James Blair Giles
blairgilessc@gmail.com
Respondent

( ) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Electronic Filer
(X) Via email

/s/ Adam Kaas